SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1906.

No. 11, ORIGINAL.

STATE OF LOUISIANA, COMPLAINANT,

vs.

STATE OF MISSISSIPPI.

IN EQUITY.

Vol. II.

(Pages 1069 to 2141, Inclusive.)

BILL FILED OCTOBER 22, 1906.



1186 DOCUMENT No. 52.

Patent No. 5093.

THE STATE OF LOUISIANA.

Patent Number 5093.

To all — whom these presents shall come, Greeting:

Whereas, Joseph C. Gilmore, of the parish of Orleans, in the State of Louisiana, purchased per certificate No. 2804, N. S. L. dated 27th April 1894, the east fractional half of northwest fractional quarter—tidal overflow—of section No. four, in township No. eleven, south of range No. twenty east, in the southeastern, east of River Land district, parish of St. Bernard, containing thirty three acres, according to the official plat of the survey of said lands in the State land office.

Know ye, that the State of Louisiana, in consideration of the premises, and in conformity with law in such cases made and provided, has given, granted and sold and by these presents do give, grant and sell, unto the said Joseph C. Gilmore and to his heirs, the above described land to have and to hold the same, together with all the right, titles and privileges thereunto belonging, unto the said Joseph C. Gilmore, and to his heirs and assigns forever.

In testimony whereof, I Murphy J. Foster governor of the State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of Baton Rouge, on the 27th day of April, in the year of our Lord 1894, and of the Independence of the United States of America the 118th.

By the governor

(Signed) MURPHY J. FOSTER.

" [SEAL.] JOHN S. LANIER,
Register State Land Office.

Recorded patent vol. 28. page 209.

Duly registered at the parish of St. Bernard on the 5th day of May A. D. 1894.

(Signed) JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

STATE OF LOUISIANA,
Parish of St. Bernard.

The undersigned clerk of the 29th judicial district court of Louisiana in and for the parish of St. Bernard, *ex officio* recorder of mortgages & register of conveyances, duly commissioned and qualified, does hereby certify the foregoing to be a true copy of patent No. 5093 by the State of Louisiana to Joseph C. Gilmore, as it appears

registered in Conveyance Book No. 18, folio 192, *et seq.*, and that it was there registered on the 5th day of May A. D. 1894.

1187 Clerk's office of St. Bernard April 2 1904.

[The Seal of the Clerk of the Parish of St. Bernard, State of Louisiana.]

JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

(Endorsed:) Document No. 52. Offered by State of Louisiana April 26. 1904 Frank H. Mortimer commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney clerk.

1188 DOCUMENT No. 53.

Patent No. 5094.

THE STATE OF LOUISIANA.

Patent Number 5094.

To all — whom these presents shall come, Greeting:

Whereas, S. Meloché, of the parish of Orleans, State of Louisiana, purchased per certificate No. 2805, N. S. L. dated 27th, April 1894. the north half of section No. thirty-two, and fractional southwest quarter tidal overflow, of section No. twenty nine, in township No. eleven south range No. nineteen, east; in the south eastern east of river land district, in the parish of St. Bernard, containing two hundred and twenty acres, according to the official plat of the survey of the said lands in the State land office,

Now know ye, that the State of Louisiana, in consideration of the premises, and in conformity with law in such case made and provided, has given, granted and sold unto the said S. Meloché and to his heirs, the above described land, to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said S. Meloché, and to his heirs and assigns forever.

In testimony whereof, I, Murphy J. Foster, governor of the State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be affixed hereunto.

Given under my hand at the city of Baton Rouge on the 27th day of April, in the year of our Lord 1894 and of the Independence of the United States the 118th.

By the governor.

(Signed) MURPHY J. FOSTER.
(") [SEAL.] JOHN S. LANIER,
Register State Land Office.

Record of patent vol. 28 page 210.

Duly registered at the parish of St. Bernard, on the 5th day of May A. D. 1894.

(Signed) JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

STATE OF LOUISIANA,
Parish of St. Bernard.

The undersigned clerk of the 29th judicial district court of Louisiana, in and for the parish of St. Bernard, *ex officio* recorder of mortgages and register of conveyances, duly commissioned and qualified, does hereby certify the foregoing to be a true copy of patent number 5094, by the State of Louisiana to S. Meloché as it appears registered in Conveyance Book No. 18, folio 193; and that it was there registered on the 5th day of May A. D. 1894.

Clerk's office, parish of St. Bernard, April 2d, 1904.

[Seal of the Clerk of the Parish of St. Bernard, State of Louisiana.]

JAS. D. ST. ALEXANDRE,
Clerk, *ex officio* Recorder.

(Endorsed:) Document No. 53 offered by State of Louisiana, April 26 1904. Frank H. Mortimer commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1189 DOCUMENT No. 54.

Patent No. 5095.

THE STATE OF LOUISIANA.

Patent Number 5095.

To all — whom these presents shall come, Greeting:

Whereas, S. Meloché of the parish of Orleans, in the State of Louisiana purchased per certificate No 2806 N. S. L. dated April 27th, 1894.

Fractional section No. 35 in township No. eleven, south of range No. twenty east, in the south eastern, east of river, land district, parish of St. Bernard, containing 170 acres, according to the official plat of the survey of said lands in the State land office,

Now know ye, that, the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and does by these presents give grant and sell unto the said S. Meloché and to his heirs, the above described land, to have and to hold the same, together with all the rights titles and privileges thereunto belonging, unto the said S. Meloché and to his heirs and assigns forever.

In testimony whereof, I, Murphy James Foster governor of the

State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of Baton Rouge, on the 27th day of April, in the year of our Lord 1894, and of the Independence of the United States the 118th.

By the governor

(Signed) MURPHY J. FOSTER.

" [SEAL.] JOHN S. LANIER,
Register State Land Office.

Record of patents vol. 28, page 210

Duly registered at the parish of St. Bernard, on the 5th day of May A. D. 1894.

(Signed) JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

STATE OF LOUISIANA,
Parish of St. Bernard.

The undersigned clerk of the 29th judicial district court of Louisiana in and for the parish of St. Bernard *ex officio* recorder of mortgages and register of conveyances, duly commissioned and qualified does hereby certify the foregoing to be a true copy of patent No. 5095, by the State of Louisiana to S. Meloché, as it appears registered in Conveyance Book No. 18—folio 191 *et seq.*; and that it was there registered on the 5th day of May A. D. 1894.

Clerk's office, parish of St. Bernard, April 2d, 1904.

[Seal of the Clerk of the Parish of St. Bernard, State of Louisiana.]

JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

1190 (Endorsed:) Document No. 54. Offered by State of Louisiana. April 26, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1191 STATE OF LOUISIANA
vs.
STATE OF MISSISSIPPI.

DOCUMENT NO. 55.

Lands Transferred to the Lake Borgne Levee District by State Land Office.

Office Supreme Court U. S. Filed Mar. 13. 1905.
JAMES H. McKENNEY, Clerk.

Document No. 55 offered by the State of Louisiana—April 26, 1904.

FRANK H. MORTIMER,
Commissioner.

1192 Descriptive list of State swamp lands situate in the parish of Plaquemines, and transferred by the State land office to the board of commissioners for Lake Borgne Basin Levee district under act No. 14 of 1892, approved June 21, 1892.

Description of tract.	Section.	Area.
T. 14 S., R. 12 E., S. E. E. of R.:		
All of	25	60.80
"	26	309.72
"	27	276.66
"	28	117.51
"	29	127.64
"	30	658.60
"	31	172.53
"	32	163.37
"	33	640.00
"	34	282.29
"	36	682.84
"	37	104.49
"	40	293.60
"	41	54.99
"	42	330.10
"	43	124.77
		4399.91
T. 14 S., R. 13 E., S. E. E. of R.:		
None.		
T. 14 S., R. 14 E., S. E. E. of R.:		
All of	31	380.00
"	32	400.00
		780.00
T. 15 S., R. 12 E., S. E. E. of R.:		
None.		
1193 T. 15 S., R. 13 E., S. E. E. of R.:		
All of	1	640.00
"	2	640.00
"	3	640.00
"	4	640.00
"	5	640.00
"	6	640.00
"	7	640.00
"	8	640.00
"	9	640.00
"	10	640.00
"	11	640.00

	Description of tract.	Section.	Area.
All of		12	640 00
"		13	640.00
"		14	640.00
"		15	640.00
"		17	640.00
"		18	640.00
	N. E. ¼ of S. W. ¼, S. E. ¼ of N. W. ¼, N. ½ of N. W. ¼ & E. ½ of	19	480.00
All of		20	640.00
"		21	640.00
"		22	640.00
"		23	640.00
"		24	640.00
"		25	640.00
"		26	640.00
"		27	640.00
"		28	640.00
	N. ½ of S. W. ¼, N. W. ¼ & E. ½ of	29	560.00
	N. W. ¼, of N. E. ¼, S. E. ¼ of N. E. ¼, S. W. ¼ of S. E. ¼, N. ½ of S. ½ & W. ½ of N. W. ¼	30	360.00
	N. E. ¼ of N. E. ¼	32	40.00
	W. ½ of N. W. ¼, E. ½ of W. ½ & E. ½ of	33	560.00
All of		34	640.00
"		35	640.00
"		36	640.00
			20560.00

1194 T. 15 S., R. 14 E., S. E. E. of R.:

All of		5	640.00
"		6	640.00
"		7	640.00
"		8	640.00
"		13	640.00
"		14	640.00
"		15	640.00
"		17	640.00
"		18	640.00
"		19	640.00
"		20	640.00
"		21	640.00
"		22	640.00
"		23	640.00
"		24	640.00
"		25	640.00
"		26	640.00
"		27	640.00
"		28	640.00

Description of tract.	Section.	Area.
All of	29	640.00
"	30	640.00
"	31	640.00
"	32	640.00
"	33	640.00
"	34	640.00
"	35	640.00
"	36	640.00
		17280.00
T. 15 S., R. 15 E., S. E. E. of R.:		
All of south of Bayou Terre aux Bœufs	7	100.00
" " " " " "	8	25.00
" " " " " "	17	630.00
All of	18	640.00
"	19	640.00
"	20	640.00
1195 T. 15 S., R. 15 E., cont'd (am't br't f'w'd)		2675.00
All of west of Bayou Terre aux Bœufs	21	490.00
" south " " " " "	27	80.00
" west " " " " "	28	635.00
"	29	640.00
"	30	640.00
"	31	640.00
"	32	640.00
"	33	640.00
" south of Bayou Terre aux Bœufs	34	635.00
" " " " " " "	35	480.00
" " " " " " "	36	45.00
		5565.00
T. 16 S., R. 12 E., S. E. E. of R.:		
All of fractional	7	6.78
T. 16 S., R. 13 E., S. E. E. of R.:		
All of	1	640.00
N. ½ of	2	320.00
N. ½ of N. ½ of	3	160.00
All of, except S. W. ¼ of S. W. ¼	12	600.00
N. E. ¼ of	13	160.00
		1880.00
T. 16 S., R. 14 E., S. E. E. of R.:		
All of	1	640.00
"	2	640.00
"	3	640.00

	Description of tract.	Section.	Area.
All of		4	640.00
"		5	640.00
"		6	640.00
"		7	640.00
"		8	640.00
"		9	640.00
"		10	640.00
"		11	640.00
"		12	640.00
"		13	640.00
	Forward		8320.00
1196	T. 16 S., R. 14 E., cont'd (am't br't f'w'd)		8320.00
All of		14	640.00
"		15	640.00
"		17	640.00
"		18	640.00
"		19	640.00
"		20	640.00
"		21	640.00
"		22	640.00
"		23	640.00
"		24	640.00
"		25	640.00
"		26	640.00
"		27	640.00
"		28	640.00
"		29	640.00
"		30	640.00
			18560.00
	T. 16 S., R. 15 E., S. E. E. of R.:		
All of south of Bayou Terre aux Bœufs		1	490.00
All of		2	640.00
"		3	640.00
"		4	640.00
"		5	640.00
"		6	640.00
"		7	640.00
"		8	640.00
"		9	640.00
"		10	640.00
"		11	640.00
"		12	640.00
"		13	640.00
"		14	640.00

	Description of tract.	Section.	Area.
"	.....	15	640.00
"	.....	17	640.00
"	.....	18	640.00
1197	T. 16 S., R. 15 E., cont'd (am't br't f'w'd).....		10730.00
All of	.....	19	640.00
"	.....	20	640.00
"	.....	21	640.00
"	.....	22	640.00
"	.....	23	640.00
"	.....	24	640.00
"	.....	25	640.00
"	.....	26	640.00
"	.....	27	640.00
"	.....	28	640.00
"	.....	29	640.00
"	.....	30	640.00
"	.....	31	640.00
"	.....	32	640.00
"	.....	33	640.00
"	.....	34	640.00
"	.....	35	640.00
"	.....	36	640.00
			22250.00
	T. 16 S., R. 16 E., S. E. E. of R:		
All of	south of Bayou Terre aux Boeufs.....	7	480.00
"	" " " " " "	8	200.00
"	" " " " " "	9	40.00
"	" " " " " "	14	100.00
"	" " " " " "	15	400.00
All of	.....	17	640.00
"	.....	18	640.00
"	.....	19	640.00
"	.....	20	640.00
"	.....	21	640.00
"	.....	22	640.00
"	.....	23	640.00
"	.....	24	640.00
"	.....	25	640.00
"	.....	26	640.00
"	.....	28	640.00
1198	T. 16 S., R. 16 E., cont'd (am't br't f'w'd).....		8260.00
All of	.....	29	640.00
"	.....	30	640.00
"	.....	31	640.00

Description of tract.	Section.	Area.
All of	32	640.00
"	35	640.00
		11460.00

T. 16 S., R. 17 E., S. E. E. of R.:

All of south of Bayou Terre aux Bœufs	19	320.00
" " " " " "	20	120.00
" " " " " "	28	80.00
" " " " " "	29	240.00
" " " " " "	30	100.00
" " " " " "	33	80.00
" " " " " "	34	80.00
		1020.00

T. 17 S., R. 13 E., S. E. E. of R.:

None.

T. 17 S., R. 14 E., S. E. E. of R.:

All of	46	640.00
"	47	640.00
"	48	420.00
"	49	160.00
"	50	10.00
"	51	325.00
"	52	640.00
"	53	540.00
"	54	15.00
"	55	120.00
		3510.00

T. 17 S., R. 15 E., S. E. E. of R.:

All of	1	120.00
"	2	280.00
"	3	420.00
"	4	550.00
"	5	640.00
"	6	640.00
1199 T. 17 S., R. 15 E., cont'd (am't br't f'w'd)..	...	2650.00
All of	7	640.00
"	8	640.00
"	9	640.00
"	10	400.00
"	11	200.00
"	12	90.00
"	13	280.00
"	14	550.00

	Description of tract.	Section.	Area.
All of		15	490.00
"		17	640.00
"		18	640.00
"		19	220.00
"		20	450.00
"		21	300.00
"		22	180.00
"		23	180.00
"		24	280.00
"		25	120.00
"		26	250.00
"		27	250.00
"		28	350.00
"		29	40.00
"		33	180.00
"		34	390.00
"		35	250.00
"		36	160.00
			11460.00
	T. 17 S., R. 16 E., S. E. E. of R.:		
All of		1	640.00
"		2	640.00
"		3	640.00
"		4	640.00
"		5	640.00
"		6	640.00
"		7	640.00
"		8	640.00
1200	T. 17 S., R. 16 E., cont'd (am't br't f'w'd)...		5120.00
All of		9	640.00
"		13	640.00
"		14	640.00
"		15	640.00
"		17	640.00
"		18	640.00
"		19	640.00
"		20	640.00
"		21	640.00
"		22	640.00
"		23	640.00
"		24	640.00
"		25	640.00
"		26	640.00
"		27	640.00
"		28	640.00

Description of tract.	Section.	Area.
All of	30	640.00
"	31	640.00
"	32	640.00
"	33	640.00
"	34	640.00
"	35	640.00
"	36	640.00
		19840.00

T. 17 S., R. 17 E., S. E. E. of R.:

All of	2	640.00
Do.	3	640.00
Do.	6	640.00
Do.	7	640.00
Do.	12	640.00
Do.	13	640.00
Do.	17	640.00
Do.	18	640.00
Do.	19	640.00
Do.	20	640.00
Do.	29	640.00
Do.	30	640.00
Do.	31	640.00
Do.	32	640.00
Do.	33	640.00
		9600.00

Grand total 148,171.69 acres.

1201 Descriptive list of State swamp lands situate in the parish of Saint Bernard and transferred by the State land office to the board of commissioners for Lake Borgne Basin Levee district under act No. 14 of 1892, approved June 21, 1892.

Description of tract.	Section.	Area.
T. 10 S., R. 20 E., S. E. E. of R.		
T. 11 S., R. 17 E., S. E. E. of R.:		
All of	1	640.00
"	2	640.00
"	11	640.00
"	14	640.00
"	22	640.00
"	23	640.00
"	25	640.00
"	26	640.00

Description of tract.	Section.	Area.
All of	27	640.00
"	28	640.00
"	32	640.00
"	34	640.00
"	35	640.00
"	36	640.00
		8960.00

T. 11 S., R. 18 E., S. E. E. of R.:

All of	5	640.00
"	6	640.00
"	30	640.00
S. ½ of fr'l S. E. ¼ N. W. ¼ of fr'l S. E. ¼ & W. ½	31	440.00
All of	33	640.00
"	34	640.00
"	35	640.00
"	36	640.00
		4920.00

T. 11 S., R. 19 E., S. E. E. of R.:

All of	1	640.00
"	11	640.00
"	12	640.00
"	14	640.00
"	15	640.00
1202 T. 11 S., R. 19 E., cont'd (am't br't f'w'd)	...	3200.00
All of	20	640.00
"	21	640.00
"	24	640.00
"	25	640.00
"	26	640.00
"	27	640.00
"	28	640.00
Frac'l E. ½ of	29	320.00
All of	30	640.00
"	31	640.00
Frac'l S. ½ of	32	320.00
All of	33	640.00
"	34	640.00
"	35	640.00
"	36	650.00
		12160.00

T. 11 S., R. 20 E., S. E. E. of R.:

All of	9	640.00
N. E. ¼ of	17	160.00

Description of tract.	Section.	Area.
N. E. ¼ of	18	160.00
N. W. ¼ of N. W. ¼, S. ½ of N. W. ¼ & S. W. ¼ of	19	280.00
All of	27	640.00
S. E. ¼ of	28	160.00
N. E. ¼ of	29	160.00
W. ½ of	30	320.00
All of, except W. ½ of frac'l N. W. ¼	33	560.00
"	34	640.00
"	36	640.00
		4360.00

T. 12 S., R. 12 E., S. E. E. of R.:

None

T. 12 S., R. 13 E., S. E. of R.:

All of	17	459.44
Lot 1, N. E. ¼ of S. E. ¼ & S. ½ of S. E. ¼ of	18	135.44
E. ½ of N. W. ¼, S. W. ¼ & E. ½ of	19	519.12
All of	20	502.76
"	21	.92
1203 T. 12 S., R. 13 E., cont'd (am't br't f'w'd)	...	1617.68
All of	25	250.00
"	26	70.00
"	29	183.84
"	30	487.68
"	31	158.52
"	34	60.00
"	35	540.00
"	36	530.00
		3897.72

T. 12 S., R. 14 E., S. E. E. of R.:

All of Error	Error...	[7]*	[640.00]*

T. 12 S., R. 15 E., S. E. E. of R.:

None Error. Error.

T. 12 S., R. 16 E., S. E. E. of R.:

All of	13	640.00
"	14	640.00
"	22	640.00
"	23	640.00
"	24	640.00
"	25	640.00
"	26	640.00

[* Figures enclosed in brackets erased in copy.]

Description of tract.	Section.	Area.
All of	27	640.00
"	34	640.00
"	35	640.00
"	36	640.00
		7040.00

T. 12 S., R. 17 E., S. E. E. of R.:

All of	1	640.00
"	2	640.00
"	3	640.00
"	4	640.00
"	7	640.00
"	8	640.00
"	9	640.00
"	10	640.00
"	11	640.00
"	12	640.00
1204 T. 12 S., R. 17 E., cont'd (am't br't f'w'd)...	...	6400.00
All of	13	640.00
"	14	640.00
"	15	640.00
"	17	640.00
"	18	640.00
"	19	640.00
"	20	640.00
"	21	640.00
"	22	640.00
"	23	640.00
"	24	640.00
"	25	640.00
"	26	640.00
"	27	640.00
"	28	640.00
"	29	640.00
"	30	640.00
"	31	640.00
"	32	640.00
"	33	640.00
"	34	640.00
"	35	640.00
"	36	640.00
		21120.00

T. 12 S., R. 18 E., S. E. E. of R.:

All of	1	640.00
"	2	640.00

	Description of tract.	Section.	Acres.
All of		3	640.00
"		4	640.00
"	east of Nine Mile bayou	5	216.36
"		6	640.00
"		7	640.00
"	east of Nine Mile bayou	8	195.04
"		9	640.00
"		10	640.00
"		11	640.00
"		13	640.00
1205	T. 12 S., R. 18 E., cont'd (am't br't f'w'd)	...	6811.40
All of		14	640.00
"		15	640.00
"		17	640.00
"		18	640.00
"		19	640.00
"		20	640.00
"		21	640.00
"		22	640.00
"		23	640.00
"		24	640.00
"		25	640.00
"		26	640.00
"		29	640.00
"		30	640.00
"		31	640.00
"		32	640.00
"		33	640.00
"		34	640.00
"		35	640.00
"		36	640.00
			19611.40
	T. 12 S., R. 19 E., S. E. E. of R.:		
All of		1	640.00
"		2	640.00
"		3	640.00
"		4	640.00
"		5	640.00
"		6	640.00
"		7	640.00
"		8	640.00
"		9	640.00
"		10	640.00
"		11	640.00
"		12	640.00
"		13	640.00
"		14	640.00

	Description of tract.	Section.	Area.
1206	T. 12 S., R. 19 E., cont'd (am't br't f'w'd)...	...	8960.00
All of		15	640.00
"		19	640.00
"		20	640.00
"		21	640.00
"		22	640.00
"		23	640.00
"		24	640.00
"		25	640.00
"		26	640.00
"		27	640.00
"		28	640.00
"		29	640.00
"		30	640.00
"		31	640.00
"		32	640.00
"		33	640.00
"		34	640.00
"		35	640.00
"		36	640.00
			21120.00
	T. 12 S., R. 20 E., S. E. E. of R.:		
All of		1	640.00
"		2	640.00
"		3	640.00
"		4	640.00
S. ½ of N. E. ¼ of		5	80.00
N. W. ¼ of S. E. ¼, W. ½ of N. W. ¼ & S. W. ¼ of		6	280.00
S. ½ of S. E. ¼ & W. ½ of		7	400.00
S. W. ¼ & E. ½ of		8	480.00
All of		9	640.00
"		10	640.00
"		11	640.00
"		17	640.00
"		18	640.00
"		19	640.00
"		20	640.00
"		21	640.00
1207	T. 12 S., R. 20 E., cont'd (am't br't f'w'd)...	...	8920.00
All of		28	640.00
"		29	640.00
"		30	640.00
"		31	640.00
"		32	640.00
			12120.00

Description of tract.	Section.	Ar
T. 12 S., R. 21 E., S. E. E. of R.:		
All of	6	64
T. 13 S., R. 12 E., S. E. E. of R.:		
None.		
T. 13 S., R. 13 E., S. E. E. of R.:		
None.		
T. 13 S., R. 14 E., S. E. E. of R.:		
All of	11	6
"	12	6
"	13	6
E. ½ of E. ½ of	14	1
All of	19	6
W. ½ of W. ½ of	20	1
E. ½ of W. ½, W. ½ of S. E. ¼ & N. E. ¼ of	21	4
E. ½ of	23	3
All of	24	6
"	25	6
N. E. ¼ & S. ½ of	26	4
W. ½ of E. ½ & E. ½ of W. ½ of	28	3
W. ½ of W. ½ of	29	1
All of	34	6
"	35	6
"	36	6
		77
T. 13 S., R. 15 E., S. E. E. of R.:		
All of	5	6
"	6	6
"	7	6
"	8	6
"	19	6
"	29	6
1208 T. 13 S., R. 15 E., cont'd (am't br't f'w'd)	...	38
All of	30	6
"	31	6
"	32	6
"	33	6
"	34	6
		70
T. 13 S., R. 16 E., S. E. E. of R.:		
All of	1	6
"	2	6
E. ½ of E. ½ of	3	1

Description of tract.	Section.	Area.
N. E. ¼ & S. ½ of	10	480.00
All of	11	640.00
"	12	640.00
"	13	640.00
"	14	640.00
"	15	640.00
"	21	640.00
Lots 1, 2, 3, 4, 7, 14, 15, N. W. ¼ of N. E. ¼ & W. ½ of N. W. ¼ of	22	294.64
Lot 1, E. ½ of N. W. ¼, N. E. ¼ & S. ½ of	23	599.72
All of	24	640.00
"	25	640.00
"	26	640.00
"	32	640.00
"	35	640.00
"	36	640.00
		11134.36
T. 13 S., R. 17 E., S. E. E. of R.:		
All of	1	640.00
"	2	640.00
"	3	640.00
"	4	640.00
"	5	640.00
"	6	640.00
"	7	640.00
"	8	640.00
"	9	640.00
"	10	640.00
1209 T. 13 S., R. 17 E., cont'd (am't br't f'w'd)	...	6400.00
All of	11	640.00
"	12	640.00
"	13	640.00
"	14	640.00
"	15	640.00
"	17	640.00
"	18	640.00
"	19	640.00
"	20	640.00
"	21	640.00
"	22	640.00
"	23	640.00
"	24	640.00
"	25	640.00
"	26	640.00
"	27	640.00

Description of tract.	Section.	Area.
All of	28	640.00
"	29	640.00
"	30	640.00
N. W. ¼ of	31	160.00
N. ½ of N. E. ¼ & S. E. ¼ of N. E. ¼ of	33	120.00
All of	34	640.00
"	35	640.00
"	36	640.00
		20760.00

T. 13 S., R. 18 E., S. E. E. of R.:

All of	1	640.00
"	2	640.00
"	3	640.00
"	4	640.00
"	5	640.00
"	6	640.00
"	7	640.00
"	8	640.00
"	9	640.00
"	10	640.00
"	11	640.00
1210 T. 13 S., R. 18 E., cont'd (am't br't f'w'd)	...	7040.00
All of	12	640.00
"	13	640.00
"	14	640.00
"	15	640.00
"	17	640.00
"	18	640.00
"	19	640.00
"	20	640.00
"	21	640.00
"	22	640.00
"	23	640.00
"	24	640.00
"	25	640.00
"	26	640.00
"	27	640.00
"	28	640.00
"	29	640.00
"	30	640.00
"	31	640.00
"	32	640.00
"	33	640.00
"	34	640.00

Description of tract.	Section.	Area.
All of.....	35	640.00
"	36	640.00
		22400.00
T. 13 S., R. 19 E., S. E. E. of R.:		
All of.....	1	640.00
"	2	640.00
"	3	640.00
"	4	640.00
"	5	640.00
"	6	640.00
"	7	640.00
"	8	640.00
"	9	640.00
"	10	640.00
"	11	640.00
1211 T. 13 S., R. 19 E., cont'd (am't br't f'w'd)...	...	7040.00
All of	12	640.00
"	13	640.00
"	14	640.00
"	15	640.00
"	17	640.00
"	18	640.00
"	19	640.00
"	20	640.00
"	21	640.00
"	22	640.00
"	25	640.00
"	26	640.00
"	28	640.00
"	29	640.00
"	30	640.00
"	31	640.00
"	32	640.00
"	33	640.00
"	34	640.00
"	35	640.00
"	36	640.00
		20480.00
T. 13 S., R. 20 E., S. E. E. of R.:		
All of	2	640.00
"	3	640.00
"	4	640.00
"	5	640.00
"	6	640.00

	Description of tract.	Section.	Area.
All of		7	640.00
"		8	640.00
"		9	640.00
"		10	640.00
"		11	640.00
"		14	640.00
"		17	640.00
"		18	640.00
"		22	640.00
1212	T. 13 S., R. 20 E., cont'd (am't br't f'w'd)...	...	8960.00
All of		23	640.00
"		24	640.00
"		26	640.00
"		27	640.00
"		28	640.00
"		29	640.00
"		30	640.00
"		31	640.00
"		32	640.00
"		33	640.00
			15360.00

T. 14 S., R. 13 E., S. E. E. of R.:

None.

T. 14 S., R. 14 E., S. E. E. of R.:

N. ½ of S. ½ & N. ½ of		1	268.00
All of		7	220.00
"		8	250.00
"		9	210.00
"		10	15.00
"		15	230.00
"		17	640.00
"		18	640.00
"		19	640.00
"		20	640.00
"		21	640.00
"		25	170.00
"	, east of Lake Lery	33	9.00
"		36	300.00
			4872.00

T. 14 S., R. 15 E., S. E. E. of R.:

Lot 4 of		3	27.00
All of		4	640.00
N. ½ of S. ½ & N. ½ of		5	480.00

	Description of tract.	Section.	Area.
	N. ½ of S. ½ & N. ½ of	6	480.00
	Lots 1 2 & N. ½ of N. E. ¼ of	9	146.05
	Lots 1, 2 & 3 & N. E. ¼ of S. E. ¼ of	10	110.40
	S. ½ of	11	320.00
1213	T. 14 S., R. 15 E., cont'd (am't br't f'w'd)..	...	2203.45
	S. ½ of	12	320.00
	All of	13	640.00
	N. ½ of N. W. ¼, S. E. ¼ of N. W. ¼ & N. E. ¼ of	14	380.00
	S. ½ of	17	320.00
	All of	18	310.00
	"	19	330.00
	"	20	640.00
	"	21	640.00
	S. ½ of	22	320.00
	N. W. ¼ & S. ½ of	25	480.00
	All of	26	640.00
	"	27	640.00
	"	28	640.00
	"	29	640.00
	"	30	640.00
	"	31	640.00
	"	32	640.00
	"	33	640.00
	"	34	640.00
	"	35	640.00
	"	36	640.00
			13618.45
	T. 14 S., R. 16 E., S. E. E. of R.:		
	N. W. ¼ of S. E. ¼, N. E. ¼ & W. ½ of	1	520.00
	All of	2	640.00
	"	3	640.00
	" south of Bayou St. Malo	4	262.00
	S. ½ of	7	320.00
	S. ½ of	8	320.00
	All of	9	640.00
	"	10	640.00
	"	11	640.00
	"	17	640.00
	"	18	640.00
	N. ½ of	19	320.00
	S. E. ¼ of	21	160.00
	S. ½ of	22	320.00

	Description of tract.	Section.	Area.
1214	T. 14 S., R. 16 E., cont'd (am't br't f'w'd)....	...	6702.00
All of		23	640.00
"		24	640.00
"		25	640.00
"		26	640.00
"		27	640.00
"		28	640.00
S. ½ of S. E. ¼ of		29	80.00
All of		31	640.00
"		32	640.00
"		33	640.00
"		34	640.00
"		35	640.00
"		36	640.00
			14462.00
	T. 14 S., R. 17 E., S. E. E. of R.:		
All of		1	640.00
"		2	640.00
N. E. ¼ of N. W. ¼ & E. ½ of		3	360.00
W. ½ of S. E. ¼, S. ½ of N. W. ¼ & S. W. ¼ of		4	320.00
S. E. ¼ of		7	160.00
All of		8	640.00
"		9	640.00
S. W. ¼ of N. W. ¼, W. ½ of S. W. ¼ & E. ½ of		10	440.00
All of		11	640.00
"		12	640.00
N. ½ of S. W. ¼, N. W. ¼ & E. ½ of		13	560.00
N. E. ¼ of S. E. ¼ & N. ½ of		14	360.00
N. E. ¼ of N. E. ¼, S. E. ¼ of S. E. ¼, W. ½ of S. E. ¼, W. ½ of N. W. ¼ & S. W. ¼ of		15	400.00
		17	640.00
All of		18	640.00
"		19	640.00
"		20	640.00
"		21	640.00
"		22	640.00
" except N. E. ¼ of N. E. ¼		23	362.20
S. ½ of N. W. ¼ & S. ½ of		24	400.00
All of		25	257.55
1215	T. 14 S., R. 17 E., cont'd (am't br't f'w'd)...	...	11299.75
All of		26	350.00
"		27	614.10
"		28	640.00
"		29	640.00
"		30	640.00

Description of tract.	Section.	Area.
All of	31	640.00
"	32	640.00
"	33	640.00
"	34	635.50
"	35	247.40
"	36	173.49
		17160.24
T. 14 S., R. 18 E., S. E. E. of R. .		
All of	1	640.00
"	2	640.00
"	3	640.00
"	4	640.00
"	5	640.00
"	6	640.00
"	7	640.00
"	8	640.00
"	9	640.00
"	10	640.00
"	11	640.00
"	12	640.00
"	13	640.00
"	14	640.00
"	15	640.00
"	17	640.00
"	18	640.00
N. E. ¼ of N. W. ¼ & E. ½ of	19	360.00
All of	20	640.00
"	21	640.00
"	22	640.00
"	23	640.00
"	24	640.00
"	25	640.00
1216 T. 14 S., R. 18 E., cont'd (am't br't f'w'd)...	...	15080.00
All of	26	640.00
"	27	640.00
"	28	640.00
"	29	640.00
"	30	640.00
"	31	640.00
"	32	640.00
"	33	640.00
"	34	640.00
"	35	640.00
"	36	640.00
		22120.00

	Description of tract.	Section.	Area.
	T. 14 S., R. 19. E., S. E. E. of R.:		
All of		1	640.00
"		2	640.00
"		3	640.00
"		4	650.00
"		5	640.00
"		6	640.00
"		7	640.00
"		8	640.00
"		9	640.00
"		10	640.00
"		11	640.00
"		15	640.00
"		17	640.00
"		18	640.00
"		19	640.00
"		20	640.00
"		22	640.00
"		23	640.00
"		24	640.00
"		25	640.00
"		26	640.00
"		27	640.00
"		29	640.00
"		30	640.00
1217	T. 14 S., R. 19 E., cont'd (am't br't f'w'd)...	...	15360.00
All of		31	640.00
"		32	640.00
"		33	640.00
"		34	640.00
"		35	640.00
			18560.00
	T. 14 S., R. 20 E., S. E. E. of R.:		
All of		19	640.00
"		30	640.00
			1280.00
	T. 15 S., R. 14 E., S. E. E. of R.:		
All of		1	130.00
	T. 15 S., R. 15 E., S. E. E. of R.:		
All of		1	640.00
"		2	640.00
"		3	640.00
"		4	600.00

	Description of tract.	Section.	Area.
All of		5	660.00
"		6	640.00
"	north of Bayou Terre aux Boeufs	7	540.00
"	" " " " "	8	615.00
"		9	240.00
"		10	630.00
"		11	640.00
"		12	640.00
"		13	300.00
"		14	640.00
"		15	640.00
"	north of Bayou Terre aux Boeufs	17	10.00
"	East " " " "	21	150.00
"		22	640.00
"		23	640.00
"		24	160.00
"		25	320.00
"		26	640.00
"	north of Bayou Terre aux Boeufs	27	560.00
"	east " " " "	28	5.00
"	north of Bayou Terre aux Boeufs	34	5.00
1218	T. 15 S., R. 15 E., cont'd (am't br't f'w'd)	...	11775.00
All of, north of Bayou Terre aux Boeufs		35	160.00
" " " " " "		36	590.00
			12525.00

T. 15. S., R. 16 E., S. E. E. of R.:

All of		1	640.00
"		2	640.00
"		3	640.00
"		4	640.00
"		5	640.00
"		6	640.00
"		7	640.00
"		8	640.00
"		9	640.00
"		10	640.00
"		11	640.00
"		12	480.00
"		13	550.00
"		14	640.00
"		15	320.00
"		17	600.00
"		18	180.00
"		20	280.00
"		21	80.00

	Description of tract.	Section.	Area.
All of		22	20.00
"		23	300.00
"		24	240.00
"		25	320.00
"		26	160.00
"		27	80.00
"		28	320.00
"		29	360.00
"		30	120.00
"		31	360.00
"		32	280.00
"		33	240.00
"		34	120.00
"		35	120.00
1219	T. 15 S., R. 16 E., cont'd, am't br't f'w'd	...	13210.00
All of		36	120.00
			13330.00

T. 15 S., R. 17 E. S. E. E. of R.:

All of fractional		1	160.00
"	"	2	600.00
"	"	3	640.00
"	"	4	640.00
"	"	5	600.00
"	"	6	640.00
"	"	7	620.00
"	"	8	480.00
"	"	9	560.00
"	"	10	480.00
"	"	11	480.00
"	"	12	460.00
"	"	13	520.00
"	"	14	80.00
"	"	15	320.00
"	"	17	240.00
"	"	18	320.00
"	"	19	240.00
"	"	20	480.00
"	"	21	480.00
"	"	22	320.00
"	"	23	15.00
"	"	24	200.00
"	"	25	240.00
"	"	26	160.00
"	"	27	200.00
"	"	28	320.00

	Description of tract.	Section.	Area.
All of fractional		29	200.00
" "		30	160.00
" "		31	380.00
" "		32	10.00
" "		33	80.00
" "		34	330.00
" "		35	640.00
" "		36	530.00
			12745.00

1220 T. 15 S., R. 18 E., S. E. E. of R.:

All of fractional		1	320.00
" "		2	320.00
" "		3	240.00
" "		4	80.00
" "		5	600.00
" "		6	320.00
" "		7	20.00
" "		8	480.00
" "		9	70.00
" "		17	160.00
" "		18	120.00
" "		19	340.00
" "		30	360.00
" "		31	360.00
			3730.00

T. 15 S., R. 19 E., S. E. E. of R.:

All of fractional		3	80.00
" "		4	540.00
" "		5	600.00
" "		6	340.00
" "		7	120.00
" "		8	600.00
" "		9	600.00
" "		10	160.00
" "		11	10.00
" "		14	120.00
" "		15	160.00
" "		17	80.00
" "		22	120.00
" "		23	300.00
" "		25	5.00
" "		26	200.00
" "		27	15.00
			4050.00

	Description of tract.	Section.	Area.
	T. 16 S., R. 15 E., S. E. E. of R.:		
	All of north of Bayou Terre aux Bœufs	1	150.00
1221	T. 16 S., R. 16 E., S. E. E. of R.:		
	All of	1	640.00
	"	2	640.00
	"	3	640.00
	"	4	640.00
	"	5	640.00
	" north of Bayou Terre aux Bœufs	6	620.00
	" " " " " "	7	160.00
	" " " " " "	8	440.00
	" " " " " "	9	600.00
	"	10	640.00
	"	11	640.00
	"	12	640.00
	"	13	640.00
	" north of Bayou Terre aux Bœufs	14	540.00
	" " " " " "	15	240.00
			8360.00
	T. 16 S., R. 17 E., S. E. E. of R.:		
	All of	1	640.00
	"	2	640.00
	"	3	640.00
	"	4	640.00
	"	5	640.00
	"	6	640.00
		7	640.00
	"	8	640.00
	"	9	640.00
	"	10	640.00
	"	11	640.00
	"	12	640.00
	"	13	640.00
	"	14	640.00
	"	15	640.00
	"	17	640.00
	"	18	640.00
	All north of Bayou Terre aux Bœufs	19	320.00
	" " " " " "	20	160.00
1222	T. 16 S., R. 17 E., cont'd, am't br't f'w'd	...	11360.00
	All of	21	5.00
	"	22	640.00
	"	23	640.00

Description of tract.	Section.	Area.
All of	21	640.00
"	26	640.00
"	27	640.00
"	28	240.00
"	29	80.00
"	33	40.00
"	34	120.00
		15045.00

T. 16 S., R. 18 E., S. E. E. of R.:

All of	6	640.00
"	7	640.00
"	19	640.00
		1920.00

RECAPITULATION.

Parish of Plaquemines.

		Br't f'w'd	50471.69
T. 14 S. R. 12 E.	4399.91	T. 16 S. R. 14 E.	18560.00
T. 14 S. R. 13 E.		T. 16 S. R. 15 E.	22250.00
T. 14 S. R. 14 E.	780.00	T. 16 S. R. 16 E.	11460.00
T. 15 S. R. 12 E.		T. 16 S. R. 17 E.	1020.00
T. 15 S. R. 13 E.	20560.00	T. 17 S. R. 13 E.	
T. 15 S. R. 14 E.	1728.00	T. 17 S. R. 14 E.	3510.00
T. 15 S. R. 15 E.	5565.00	T. 17 S. R. 15 E.	11460.00
T. 16 S. R. 12 E.	6.78	T. 17 S. R. 16 E.	19840.00
T. 16 S. R. 13 E.	1880.00	T. 17 S. R. 17 E.	9600.00
F'w'd	50471.69	Total	148171.69

Parish of St. Bernard.

		Br't f'w'd	34297.72
T. 10 S. R. 20 E.		T. 12 S. R. 16 E.	7040.00
T. 11 S. R. 17 E.	8960.00	T. 12 S. R. 17 E.	21120.00
T. 11 S. R. 18 E.	4920.00	T. 12 S. R. 18 E.	19611.40
T. 11 S. R. 19 E.	12160.00	T. 12 S. R. 19 E.	21120.00
T. 11 S. R. 20 E.	4360.60	T. 12 S. R. 20 E.	12120.00
T. 12 S. R. 12 E.		T. 12 S. R. 21 E.	640.00
T. 12 S. R. 13 E.	3897.72	T. 13 S. R. 12 E.	
	34297.72		115949.12

1223

Br't f'w'd.....	115949.12	Br't f'w'd.....	270996.17
T. 13 S. R. 13 E.....		T. 14 S. R. 18 E.....	22120.00
T. 13 S. R. 14 E.....	7760.00	T. 14 S. R. 19 E.....	18560.00
T. 13 S. R. 15 E.....	7040.00	T. 14 S. R. 20 E.....	1280.00
T. 13 S. R. 16 E.....	11134.36	T. 15 S. R. 14 E.....	130.00
T. 13 S. R. 17 E.....	20760.00	T. 15 S. R. 15 E.....	12525.00
T. 13 S. R. 18 E.....	22400.00	T. 15 S. R. 16 E.....	13330.00
T. 13 S. R. 19 E.....	20480.00	T. 15 S. R. 17 E.....	12745.00
T. 13 S. R. 20 E.....	15360.00	T. 15 S. R. 18 E.....	3730.00
T. 13 S. R. 13 E.....		T. 15 S. R. 19 E.....	4050.00
T. 14 S. R. 14 E.....	4872.00	T. 16 S. R. 15 E.....	150.00
T. 14 S. R. 15 E.....	13618.45	T. 16 S. R. 16 E.....	8360.00
T. 14 S. R. 16 E.....	14462.00	T. 16 S. R. 17 E.....	15045.00
T. 14 S. R. 17 E.....	17160.24	T. 16 S. R. 18 E.....	1920.00
F'w'd.....	270996.17	Total.....	384941.17

Total area parish of Plaquemines.....	148,171.69
" " " " St. Bernard.....	384,941.17
Grand total actual estimated area.....	533,112.86

I, John S. Lanier, register of the State land office, do hereby certify the above and foregoing descriptive list of swamp lands, embracing actual and estimated areas, lying, situate and being in the parishes of Plaquemines and St. Bernard, and embraced in the Lake Borgne Basin Levee district as contemplated by act No. 14 of 1892, are hereby transferred to "the Board of Commissioners for Lake Borgne Basin Levee District," under and by virtue of said act, approved June 21, 1892.

Witness my official signature and seal of office, at Baton Rouge, La., this 2nd day of April, 1895.

(Signed) JOHN S. LANIER, Register.

Interlined before signing.

(Signed) JOHN S. LANIER, Register.

1224 Folio 303 *et seq.*

STATE OF LOUISIANA, }
Parish of St. Bernard. }

The undersigned clerk, *ex officio* recorder of mortgages & register of conveyances, in and for the parish of St. Bernard, duly qualified, does hereby certify that the foregoing list of swamp lands, situated in the parish of St. Bernard, transferred by the State of Louisiana, to the Board of Commissioners for the Lake Borgne Basin Levee District, and herein described from page No. 10 to page No.

32, both inclusive, was duly registered at the parish of St. Bernard, on the 20th day of May A. D. 1898, in Conveyance Book No. 18, fo. 303 *et seq.* clerk's office May 20th 1895

(Signed) JAS. D. ST. ALEXANDRE,
Cl'k, *ex Officio* Recorder.

STATE OF LOUISIANA,
Parish of Plaquemines.

I the undersigned clerk and *ex officio* recorder of mortgages and register of conveyances in and for the parish of Plaquemines, duly qualified do hereby certify that the foregoing list of swamp lands situated in the parish of Plaquemines transferred by the State of Louisiana to the Board of Commissioners for the Lake Borgne Basin Levee District and herein described from page 1 to page No. 9 both inclusive was duly registered at the parish of Plaquemines on the 24th day of May A. D. 1895 in Conveyance Book 31 No. 8915 folio 269 clerk's office May 24th 1895.

(Signed) O. BUTLER, Cl'k of C.

1225 I, James D. St. Alexandre, clerk of the 29th judicial district court, parish of St. Bernard, State of Louisiana and *ex officio* register of conveyances of the parish of St. Bernard, State of Louisiana, do hereby certify that the above and foregoing is a true and correct copy of the original deed on file and of record in my office.

In faith whereof witness my signature and seal of office, affixed at St. Bernard, parish of St. Bernard, State of Louisiana, this 30th day of March, 1904.

[SEAL.]

JAS. D. ST. ALEXANDRE,
Clerk of Court and *ex Officio* Register of Conveyances of the Parish of St. Bernard, State of Louisiana.

1226 DOCUMENT No. 56.

NEW ORLEANS, October 10th, 1894.

For valuable consideration, I hereby sell, transfer, assign convey, set over and deliver unto the Louisiana Navigation Company, Limited the land hereinafter described, and all my right, title and interest in and to the same, as the said land now exists and stands, as evidenced by the various titles and patents for the said respective piece, and portion respectively, either as a part or as a whole viz:

The following described property to wit:

Certain lands situated in the south eastern land district of Louisiana, in the parish of St. Bernard, embracing the island known as "Isle au Pitre" and other lands, viz:

1. The fractional sections Nos. 23, 24, 25 and 26 in township No 10, S. R. No. 20 E. containing 468 78/100 acres.

2. The fractional section- 33 and 34 in township No. 10, S. of R. No. 20, east, containing 569 72 / 100 acres.

3. The fractional sections Nos. 27, 28, and 32, in township No. 10, S. of R. No. 20, east, containing 380 & 40 / 100 acres.

Three islands in sections 20, 21, 28 and 29 in township No. 10, S. of R. No. 20, east, in the south eastern, east of river, land district containing 51 & 40 / 100 acres.

The fractional west ½ of fractional west ½ of section 4, and fractional north east ¼ of section No. 5 in township No. 11, S. of R. No. 20 E. in the south eastern, east of river land district, containing 276 & no / 100 acres.

The fractional section- 5, 6, 7, 8; south west ¼ of section 18; north east ¼ of north west ¼ of section 19, and west ½ of section No. 31, in township No. 11, S. R. No. 20 east, in the south eastern, east of river land district, containing 990 acres.

All of fractional section No. 13, in township No. 11, S. R. No. 19, east in the south eastern, east of river land district, containing 320 acres.

The east fractional ½ of north west fractional ¼ of section No. 4, in township No. 11, S. of R. No. 20, east, in the south eastern, east of river land district containing 33 & 00 / 100 acres.

The south ½ and northwest ¼ of section 5, east ½ of east ½, and south west ¼ of south east ¼ of section 6; north east ¼, north ½ of south east ¼ of section 7; and north west ¼ of section 8, in township No. 12, S. R. No. 20 E. in the south eastern, east of river land district, containing 1,080 00 / 100 acres.

The west ½ of north east ¼, and east ½ of north west ¼ of section No. 6, in township No. 12, S. R. No. 20 east, in the south eastern east of river land district, containing 160 & no / 100 acres.

All of section No. 20 in township No. 11, S. R. No. 20 E. in the south eastern, east of river land district containing 640 acres.

The west ½ of south west ¼ section 17;—south east ¼ of section 18; east ½ of section 19; west ½ of section 29; east ½ of section 30; east ½ of section 31, and west ½ of section 32, in township No. 11, S. R. No. 20 east, in the south eastern, east of river land district containing 1,840 acres.

1227 Together with all rights of accretion, rights ways, privileges, advantages and appurtenances thereunto belonging or in anywise appertaining.

(Original signed) JOSEPH C. GILMORE.

Above transfer accepted for and on behalf of the Louisiana Navigation Company Limited.

(Original signed) W. V. GILMORE, President.

Duly registered at the parish of St. Bernard on the 8th day of February A. D. 1895.

(Signed) JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

STATE OF LOUISIANA, }
Parish of St. Bernard. }

The undersigned clerk of the 29th judicial district court of Louisiana, in and for the parish of St. Bernard, *ex officio* recorder of mortgages & register of conveyances, duly commissioned and qualified, does hereby certify the foregoing to be a true copy of the deed of sale by Joseph C. Gilmore to the Louisiana Navigation Company Limited, as it appears registered in Conveyance Book No. 18 folio 270 *et seq.*; and that it was there registered on the 8th day of February A. D. 1895.

Clerk's office, parish of St. Bernard, April 2d 1904.

[Seal of the Clerk of the Parish of St. Bernard, State of Louisiana.]

JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

(Endorsed:) Document No. 56 Offered by State of Louisiana, April 26, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1228 DOCUMENT No. 57.

STATE OF LOUISIANA, }
Parish of Orleans. }

Know all men by these presents, that the Board of Commissioners for the Lake Borgne Basin Levee District, domiciled at New Orleans La. herein represented by John Dymond, president of said board, pursuant to a resolution adopted August 19th, 1898, & September 16th, 1898, hereto attached and made part hereof, do hereby transfer, sell, assign and convey unto Charles Sanger, a resident of Bay St. Louis, Mississippi, the following described lands, situated in the parish of St. Bernard, State of Louisiana to wit:

Fractional south ½ of section 15.

East ½ fractional southwest ¼, and fractional east ½ of northwest ¼ of section 21. All of sections 22, 27 and 28; north ½ of section 33; north ½ of section 34; containing 3,440 acres, and the south ½ of the north west ¼, and south west ¼ of section 23; west ½ of north east ¼ and west ½ of section 26; west ½ of north east ¼, and north west ¼ of section 35, containing 880 acres.

All situated in township No. eleven S. of R. No. 19, east in the south eastern land district, east of Mississippi river, and aggregating 4,320 acres; according to the plats of United States surveyor general on file in this office of said board of commissioners. All said lands were acquired from the State of Louisiana under act 14, approved June 21st 1892, and deeds of J. S. Lanier, register of the State land office, dated 2d April 1895, registered in Conveyance Book 19 fo. 307.

The consideration of this sale is the sum of five hundred and forty dollars ($540.00) cash in hand paid, the receipt whereof is hereby acknowledged.

It is understood that only such title is hereby conveyed, as was acquired by the aforesaid act of 1892, and the deeds thereunder referred to.

In testimony whereof, I have, together with the undersigned legal and competent witnesses, signed my name on this 16th day of September 1898.

(Signed) JOHN DYMOND,
President Board of Commissioners for the
Lake Borgne Basin Levee District.
" CHARLES SANGER.
" [SEAL.] N. H. NUNEZ, Secretary.

(Witnesses:)
(Signed) JOS. R. BRES.
" JOHN DYMOND, JR.

STATE OF LOUISIANA, }
Parish of Orleans. }

Be it known that before me the undersigned authority, on this day, came and appeared: Joseph R. Bres, one of the subscribing witnesses to the foregoing act, who after being by me duly sworn, declared that said act was duly executed and signed in his presence and in the presence of the other subscribing witnesses, on the day and year and for all the uses and purposes therein expressed.

(Signed) JOS. R. BRES.

1229 Sworn to and subscribed before me this 16th day of September A. D. 1898.
(Signed) CHAS. B. UPTON, Not. Pub.

Duly registered at the parish of St. Bernard on the 8th day of December A. D. 1898.
(Signed) JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

STATE OF LOUISIANA, }
Parish of St. Bernard. }

The undersigned clerk of the 29th judicial district court of Louisiana, in and for the parish of St. Bernard, *ex officio* recorder of mortgages and register of conveyances duly commissioned and qualified, does hereby certify the foregoing to be a true copy of the act of sale by the Board of Commissioners for the Lake Borgne, Basin Levee District to Charles Sanger, as it appears registered in Conveyance

Book Number 19 folio 349 *et seq.*; and that it was there registered on the 8th day of December A. D. 1898.

Clerk's office, parish of St. Bernard, April 2d, 1904.

[Seal of the Clerk of the Parish of St. Bernard, State of Louisiana.]

JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

(Endorsed:) Document No. 57. Offered by State of Louisiana. April 26th, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1230 DOCUMENT NO. 58.

STATE OF LOUISIANA, }
Parish of Orleans. }

Know all men by these presents: That the Board of Commissioners for the Lake Borgne Basin Levee District, domiciled in the city of New Orleans, State of Louisiana, herein represented by John Dymond, president, pursuant to a resolution adopted 16th day of June 1898, a copy whereof is hereto attached & made part hereof, does hereby transfer, sell and convey unto Mr. George H. Dunbar, of New Orleans, the following described lands situated in the parish of St. Bernard, State of Louisiana, to wit:—South east ¼ of north east ¼, south east ¼ of south west ¼, and south east ¼ of section eleven; 240 acres.

North east ¼ section; north east ¼ of north west ¼ south ½ of north-west ¼ and south ½ of section twelve; 600 acres.

All of section 14; 640 acres.

North ½ of north west ¼ and east ½ of section twenty three; 400 acres.

All of section twenty four; 640 acres.

All of section twenty five; 640 acres.

East ½ of north east ¼ and south east ¼ of section 26; 240 acres. East ½ of north east ¼ section 35; 80 acres; north ½ of south ½ and south ½ and north ½ of section 36; 480 acres, in township eleven, S. R. 19 east, and the

North west ¼ of north west ¼; south ½ of north west ¼ and south west ¼ of section nineteen, 280 acres; west ½ of section 30; 320 acres; in township eleven, S. of R. 20 east.

Also all and entire the island designated as "Preacher's island," embracing all of fractional section (13) thirteen, 8.20 / 100 acres; all of fractional section fourteen; 141 12 / 100 acres. All of fractional section fifteen, 113.86 / 100 acres, All of fractional section twenty two, 53.93 / 100 acres, All of fractional section twenty three 114.06 / 100 acres, and the fractional west half of section twenty four, 151.07 / 100 acres; in township 12 S. R. 18 east, in the south eastern land district, east of the Mississippi river, and containing in the

aggregate 5122.21/100 acres, according to the plat of the Unit States surveyor general of La. on file in the office of said board commissioners; being the same lands acquired from the State Louisiana under section 11 of act 14 approved June 21st, 1892 deeds of J. S. Lanier, register of the State land office, dated respe ively April 2d, 1895, and May 25th, 1898, registered in C. O. B. fo. 303 & Book 19, folio 307, of parish of St. Bernard.

The consideration of this sale is six hundred and forty one 53/1 dollars. ($641.53/—) cash in hand paid, receipt whereof is here acknowledged. It is understood that the board of commission transfer only such title as it acquired from the State of Louisia under the charter, and the aforesaid deeds of transfer.

Thus done and signed this 17th day of June A. D. 1899, in t presence of the undersigned legal and competent witnesses, at N Orleans, State of Louisiana.

(Signed) JOHN DYMOND,
President Board of Commissioners for the
Lake Borgne Basin Levee District
" (Attest:) N. H. NUNEZ.
" J. R. BRES.

1231 Duly registered at the parish of St. Bernard on the 2 day of June, A. D. 1899.

(Signed) JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder

Before me the undersigned authority commissioned and qualifi for the parish of Orleans, State of Louisiana personally came a appeared John Dymond, president of the Board of Commission for the Lake Borgne Basin Levee District, who signed the forego deed for the purpose therein set forth in my presence and in t presence of Jos. R. Bres, and N. H. Nunez, competent witnes whose names were thereunto subscribed by them in the sa presence.

Witness my hand and seal this 17th day of June A. D. 1899.

(Signed) JOHN DYMOND,
President Board of Commissioners for the
Lake Borgne Basin Levee District

Int. rev. stamp $1.00.

CHAS. B. UPTON, Not. Pul

Duly registered at the parish of St. Bernard, on the 21st day June A. D. 1899.

(Signed) JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder

STATE OF LOUISIANA, }
Parish of St. Bernard. }

The undersigned clerk of the 29th judicial district court of Lou ana in and for the parish of St. Bernard *ex officio* recorder of m

gages & register of conveyances, duly commissioned and qual
does hereby certify the foregoing act of sale by the Board of Com
sioners for the Lake Borgne Basin Levee District to Georg
Dunbar, to be a true copy of the said act as it appears register
Conveyance Book No. 19, fo. 382 *et seq.*; and that it was there
istered on the 21st day of June A. D. 1899.

Clerk's office, parish of St. Bernard, April 2d, 1904.

[Seal of the Clerk of the Parish of St. Bernard, State of Louisiana.]

JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Record

(Endorsed:) Document No. 58 Offered by State of Louis
April 26, 1904. Frank H. Mortimer commissioner. Office Sup
Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk

1232 DOCUMENT No. 59.

STATE OF LOUISIANA,
Parish of St. Bernard.

Cash Sale of Lands by Board of Commissioners for the Lake B
Basin Levee District to George Ruppel.

Be it known that on this 7th day of March A. D. 1902, befo
James D. St. Alexandre a notary public in and for the parish
Bernard, State of Louisiana, duly commissioned and qualified
sworn personally came and appeared: Mr. John Dymond pres
of the Board of Commissioners for the Lake Borgne Basin Leve
trict a corporation created by act No. 14 of the General Asse
of the State of Louisiana approved June 21st, 1892, domiciled i
city of New Orleans; the said appearer acting in his afo
capacity by virtue of a resolution adopted by the said Board of
missioners for the Lake Borgne Basin District, at their sitti
Friday February 21st 1902, a certified copy whereof is hereun
nexed and made a part hereof.

Which said appear-s, acting in his aforesaid capacity, in the
and on behalf of the said Board of Commissioners for the Lake B
Basin Levee District, declared that for the consideration and
terms and conditions hereinafter expressed, he does by these
cuts grant, bargain, sell, convey, transfer, assign and set over,
out any warranty whatsoever, unto: Mr. George Ruppel,
present, accepting and purchasing for himself, his heirs and as
and acknowledging delivery and possession thereof, the follo
described lands, to wit:

The east half of section thirty three (33) containing abou
hundred acres, and the west half of section thirty four, conta
about two hundred acres, in township (11) eleven, south of ra
east.

The north west quarter of section three (3) containing seventy acres, more or less, and

The north east quarter of section four (4) containing one hundred and fifty acres, more or less, in township twelve (12) south range twenty east.

All of the above lands are in the south eastern land district east of river, and contain six hundred and twenty acres, more or less. The whole according to the map filed in the office of the Board of Commissioners for the Lake Borgne Basin Levee District.

It is distinctly understood by the parties hereto that the Board of Commissioners for the Lake Borgne Basin Levee District, through their said president transfer, assign and set over, only those rights and interests which the said board now have in and to the aforesaid lands, giving hereby simply a quit claim, and making and giving no warranty whatsoever; and further, that should the said title be subsequently declared void, the said board shall not reimburse to the purchaser any sum whatever. It is further distinctly agreed and understood between the parties hereto that this sale is made and accepted subject to all the existing and necessary rights of drainage of property holders, which shall not be injured in any way, shape or form, that is to say, the purchaser does hereby accept the sale of the above described lands subject to the servitudes of drainage from the river and Terre aux Boufs Ridge edge, and that the survey of said lands shall be made at the expense of the purchaser, by a surveyor who must be acceptable to the vendor, and in the absence of any survey, any error in location, quantity, or description, shall be at the risk of the purchaser.

1233 This sale is made and accepted for and in consideration of the price and sum of seventy seven & 50 100 dollars ($77.50) cash, which the purchaser has presently paid in ready and current money, unto the said John Dymond, president who hereby acknowledges the receipt thereof and grants full acquittance and discharge therefor.

By reference to the certificate of the clerk and recorder of the parish of St. Bernard, it appears that the herein above described lands were not alienated by the State of Louisiana, except by a sale thereof to the Lake Borgne Basin Levee District Commissioners; and by the same certificate it does not appear that the Lake Borgne Basin Levee District Commissioners have alienated the same from the time of their acquisition thereof.

The taxes of the current year 1902 are assumed by the purchaser. To have and to hold the said above described lands his heirs and assigns forever.

Thus done and passed at the parish of St. Bernard on the day, month and year first above written in the presence of Messrs. Nemours H. Nunez, and Esteve E. Nunez, competent witnesses of lawful age, residing in this parish, who have signed their names hereto,

ith the said appearers and me notary after due reading of the hole.

(Original signed) JOHN DYMOND, President.
" " GEO. RUPPEL.
" " N. H. NUNEZ.
" " E. E. NUNEZ.
" " JAS. D. ST. ALEXANDRE.
Not. Pub.

I hereby certify the foregoing to be a true copy of the original act record in my notarial archives.

In testimony whereof, I affix hereto my hand and the impress of y seal of office, at the parish of St. Bernard, State of Louisiana, on is second day of April A. D. 1904.

(Seal of James D. St. Alexandre, Notary Public, Parish of St. Bernard, State of Louisiana.)

JAS. D. ST. ALEXANDRE, Not. Pub.

The original of this act was duly registered at the parish of St. ernard, on the 8th day of March A. D. 1902, in Conveyance Book o. 20 folio 71 *et seq.*

Clerk's office, parish of St. Bernard, April 2d, 1904.

(Seal of the Clerk of the Parish of St. Bernard, State of Louisiana.)

JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

(Endorsed:) Document No. 59. Offered by State of Louisiana pril 26, 1904. Frank H. Mortimer, commissioner. Office Su-reme Court U. S. Filed Mar. 13, 1905. James H. McKenney, erk.

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CARD 13

1234 DOCUMENT No. 60.

Office of Police Jury of the Parish of St. Bernard.

1st ward, Sebastien Roy.
2nd " Gustave Jaques.
3rd " Lovinski Nunez, president.
4th " Adam Estopinal.
5th " Henry Verret.
6th " Nick Fernandez.
7th " A. C. Ruiz.
Alcide Gutierrez, secretary.
J. C. Bourg, treasurer.

ST. BERNARD P. O., LA., ——, 190–.

Mr. Ruiz submitted the following budget of expenses for the year 1896, which was adopted:

School funds	$1500.00
Printing	400.00
Police jury & reviewing board	150.00
Cemetery fund	75.00
Sheriff in criminal matters	500.00
Maintenance of prisoners	1800.00
District att'y	450.00
Secretary police jury	450.00
Assessor	350.00
Coroner	450.00
Parish treasurer	450.00
Sergeant at arms	150.00
Grand and petit jurors	350.00
Justices of the peace & constables	200.00
Stationery clerk's office	200.00
Paupers' funds	25.00
Parish map	500.00
Sanitary officer	258.00
Police officers	2040.00
Road funds	2000.00
Election expenses	500.00
Court house repairs & furniture	200.00
Contingent expenses	500.00
	13498.00

I hereby certify the above to be a true and correct copy of *of* the budget of expenses for the parish of St. Bernard, as adopted by the police jury of the parish of St. Bernard, La., on August 3d, 1896.

ALCIDE GUTIERREZ,
Secretary of the Police Jury, Parish of St. Bernard, La.

(Endorsed:) Document No. 60 Offered by the State of Louisiana, April 26, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1235 DOCUMENT No. 61.

Extract from the Minutes of the Police Jury of the Parish of Plaquemines, La., Meeting Held January 7th, 1901.

By Mr. PEREZ: Resolved that the chair appoints a committee of three to confer with a like committee from St. Bernard parish as to some means of preventing the depredation of oyster beds by parties from the State of Mississippi, Adopted.

The chair appointed the following committee, viz: Messrs. J. B. Fasterling, Thomas Brophy and Roselius Perez.

I hereby certify that the above extract is true and correct from the minute book of the police jury of the parish of Plaquemines La., April 6th, 1904.

JOS. SAVOIE,
Secretary Police Jury, Parish of Plaquemines, La.

(Endorsed:) Document No. 61 Offered by State of Louisiana. April 26, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1236 DOCUMENT No. 62.

List of swamp and overflowed lands unfit for cultivation selected, as enuring to the State of Louisiana, under the act of Congress approved March 2nd, 1849, in the south eastern district, Louisiana, to the approval of which no objections appear on the tract books (except that there is no survey).

(All East of the Mississippi River.)

Description of the tract.	No. of section.	No. of township.	No. of range.	Area.		Remarks.
				Acres.	*Hdths.*	
Section	26	10	17 E.	640	00	Estimated.
"	36	"	"	640	00	
"	29	"	18 E.	640	00	
"	31	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	
"	23	"	20 E.	640	00	
"	24	"	"	640	00	
"	25	"	"	640	00	
"	26	"	"	640	00	
"	27	"	"	640	00	
"	28	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	

GENERAL LAND OFFICE, May 7th, 1852.

I, John Wilson, acting Commissioner of the General Land Office, do hereby certify that the foregoing is a correct copy of the list of swamp and overflowed lands, selected for the State of Louisiana, under the act of Congress approved March 2nd, 1849, entitled "An act" to aid the State of Louisiana in draining the swamp "lands therein" in the district of lands subject to sale at New Orleans, Louisiana, taken from the original list on file in this office, which original list was submitted to the Secretary of the Interior, on the 4th, day of May 1852, for his action and decision thereon, and was by him returned on the 6th, day of the same month, with a letter and an endorsement thereon, advising this office, that he had approved the same in accordance with the provisions of the second section of the act aforesaid, and which list now remains on the files of this office.

In testimony whereof I have hereunto set my hand and caused to be affixed the seal of the General Land Office, at the city of Washington the day and year above written.

[SEAL.] (Signed) JOHN WILSON,
Acting Commissioner.

STATE OF LOUISIANA,
State Land Office, Baton Rouge.

I, James M. Smith, register of the State land office of the State of Louisiana, do hereby certify the within and foregoing to be a true and correct extract from volume one (1) showing swamp land approvals and rejections in south eastern district of Louisiana.

1237 Given under my hand and seal of office at the city of Baton Rouge, on this 11th, day of April, A. D. 1904.

JAS. M. SMITH,
Register State Land Office.

[Seal of Land Office, State of Louisiana.]

(Endorsed:) Document No. 62 Offered by the State of Louisiana April 28, 1904 Frank H. Mortimer commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1238 DOCUMENT No. 63.

New Orleans District.

List of swamp and overflowed lands unfit for cultivation selected, as enuring to the State of Louisiana, under act of Congress approved March 2nd, 1849, in the southeastern district, Louisiana, to the approval of which no objections appear on the tract books.

(All East of the Mississippi River.)

Description of the tract.	No. of section.	No. of township.	No. of range.	Area.		Remarks.
				Acres.	*Hdths.*	
Section.....	1	11	17 E.	640	00	
"	2	"	"	640	00	
"	11	"	"	640	00	
"	14	"	"	640	00	
"	22	"	"	640	00	
"	23	"	"	640	00	
"	25	"	"	640	00	
"	26	"	"	640	00	
"	27	"	"	640	00	
"	28	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	
"	36	"	"	640	00	
"	5	"	18 E.	640	00	
"	6	"	"	640	00	
"	30	"	"	640	00	
"	31	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	
"	36	"	"	640	00	All estimated
"	1	"	19 E.	640	00	
"	11	"	"	640	00	
"	12	"	"	640	00	
"	13	"	"	640	00	
"	14	"	"	640	00	

DOCUMENT No. 63—Continued.

Description of the tract.	No. of section.	No. of township.	No. of range.	Area.		Remarks.
				Acres.	*Hdths.*	
Section	15	11	19 E.	640	00	
"	20	"	"	640	00	
"	21	"	"	640	00	
"	22	"	"	640	00	
"	23	"	"	640	00	
"	24	"	"	640	00	
"	25	"	"	640	00	
"	26	"	"	640	00	
"	27	"	"	640	00	
"	28	"	"	640	00	
"	29	"	"	640	00	
"	30	"	"	640	00	
"	31	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	
Section	36	"	"	640	00	
1239 "	4	11	20 E.	640	00	
"	5	"	"	640	00	
Section	6	"	"	640	00	
"	7	"	"	640	00	
"	8	"	"	640	00	
"	9	"	"	640	00	
"	17	"	"	640	00	
"	18	"	"	640	00	All estimated
"	19	"	"	640	00	
"	20	"	"	640	00	
"	27	"	"	640	00	
"	28	"	"	640	00	
"	29	"	"	640	00	
"	30	"	"	640	00	
"	31	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	
"	36	"	"	640	00	

DOCUMENT No. 63—Continued.

Description of the tract.	No. of section.	No. of township.	No of range.	Area.		Remarks.
				Acres.	*Hdths.*	
Section	13	12	16 E.	640	00	
"	14	"	"	640	00	
"	22	"	"	640	00	
"	23	"	"	640	00	
"	24	"	"	640	00	
"	25	"	"	640	00	
"	26	"	"	640	00	
"	27	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	
"	36	"	"	640	00	
"	1	"	17 E.	640	00	
"	2	"	"	640	00	
"	3	"	"	640	00	
"	4	"	"	640	00	
"	7	"	"	640	00	
"	8	"	"	640	00	
"	9	"	"	640	00	
"	10	"	"	640	00	
"	11	"	"	640	00	All estimated
"	12	"	"	640	00	
"	13	"	"	640	00	
"	14	"	"	640	00	
"	15	"	"	640	00	
"	17	"	"	640	00	
"	18	"	"	640	00	
"	19	"	"	640	00	
"	20	"	"	640	00	
"	21	"	"	640	00	
"	22	"	"	640	00	
"	23	"	"	640	00	
"	24	"	"	640	00	
"	25	"	"	640	00	
"	26	"	"	640	00	
"	27	"	"	640	00	
"	28	"	"	640	00	
"	29	"	"	640	00	

DOCUMENT No. 63—Continued.

Description of the tract.	No. of section.	No. of township.	No. of range.	Area.		Remarks.
				Acres.	*Hdths.*	
1240 Section.....	30	12	17 E..	640	00	
"	31	"	"	640	00	
Section.....	32	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	
"	36	"	"	640	00	
"	1	"	18 E.	640	00	
"	2	"	"	640	00	
"	3	"	"	640	00	
"	4	"	"	640	00	
"	5	"	"	640	00	
"	6	"	"	640	00	
"	7	"	"	640	00	
"	8	"	"	640	00	All estimated
"	9	"	"	640	00	
"	10	"	"	640	00	
"	11	"	"	640	00	
"	13	"	"	640	00	
"	14	"	"	640	00	
"	15	"	"	640	00	
"	17	"	"	640	00	
"	18	"	"	640	00	
"	19	"	"	640	00	
"	20	"	"	640	00	
"	21	"	"	640	00	
"	22	"	"	640	00	
"	23	"	"	640	00	
"	24	"	"	640	00	
"	25	"	"	640	00	
"	26	"	"	640	00	
"	29	"	"	640	00	
"	30	"	"	640	00	
"	31	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	

DOCUMENT No. 63—Continued.

Description of the tract.	No. of section.	No. of township.	No. of range.	Area.		Remarks.
				Acres.	*Hdths.*	
Section.....	36	12	18 E.	640	00	
"	1	"	19 E.	640	00	
"	2	"	"	640	00	
"	3	"	"	640	00	
"	4	"	"	640	00	
"	5	"	"	640	00	
"	6	"	"	640	00	
"	7	"	"	640	00	
"	8	"	"	640	00	
"	9	"	"	640	00	All estimated
"	10	"	"	640	00	
"	11	"	"	640	00	
"	12	"	"	640	00	
"	13	"	"	640	00	
"	14	"	"	640	00	
"	15	"	"	640	00	
"	19	"	"	640	00	
"	20	"	"	640	00	
"	21	"	"	640	00	
Section.....	22	"	"	640	00	
1241 "	23	12	19 E.	640	00	
"	24	"	"	640	00	
Section.....	25	"	"	640	00	
"	26	"	"	640	00	
"	27	"	"	640	00	
"	28	"	"	640	00	
"	29	"	"	640	00	
"	30	"	"	640	00	
"	31	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	
"	36	"	"	640	00	
"	1	"	20 E.	640	00	
"	2	"	"	640	00	
"	3	"	"	640	00	
"	4	"	"	640	00	

DOCUMENT No. 63—Continued.

Description of the tract.	No. of section.	No. of township.	No. of range.	Area.		Remarks.
				Acres.	*Hdths.*	
Section.....	5	12	20 E.	640	00	
"	6	"	"	640	00	
"	7	"	"	640	00	
"	8	"	"	640	00	All estimated
"	9	"	"	640	00	
"	10	"	"	640	00	
"	11	"	"	640	00	
"	17	"	"	640	00	
"	18	"	"	640	00	
"	19	"	"	640	00	
"	20	"	"	640	00	
"	21	"	"	640	00	
"	28	"	"	640	00	
"	29	"	"	640	00	
"	30	"	"	640	00	
"	31	"	"	640	00	
"	32	"	"	640	00	
"	1	13	16 E.	640	00	
"	2	"	"	640	00	
"	3	"	"	640	00	
"	10	"	"	640	00	
"	11	"	"	640	00	
"	12	"	"	640	00	
"	13	"	"	640	00	
"	14	"	"	640	00	
"	15	"	"	640	00	
"	21	"	"	640	00	
"	22	"	"	640	00	
"	23	"	"	640	00	
"	24	"	"	640	00	
"	25	"	"	640	00	
"	26	"	"	640	00	
"	27	"	"	640	00	
"	28	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	All estimated
"	34	"	"	640	00	
"	35	"	"	640	00	
"	36	"	"	640	00	

DOCUMENT No. 63—Continued.

Description of the tract.	No. of section.	No. of township.	No. of range.	Area.		Remarks.
				Acres.	*Hdths.*	
1242 Section.....	1	13	17 E.	640	00	
"	2	"	"	640	00	
Section.....	3	"	"	640	00	
"	4	"	"	640	00	
"	5	"	"	640	00	
"	6	"	"	640	00	
"	7	"	"	640	00	
"	8	"	"	640	00	
"	9	"	"	640	00	
"	10	"	"	640	00	
"	11	"	"	640	00	
"	12	"	"	640	00	
"	13	"	"	640	00	
"	14	"	"	640	00	
"	15	"	"	640	00	
"	17	"	"	640	00	
"	18	"	"	640	00	
"	19	"	"	640	00	
"	20	"	"	640	00	
"	21	"	"	640	00	
"	22	"	"	640	00	
"	23	"	"	640	00	
"	24	"	"	640	00	
"	25	"	"	640	00	
"	26	"	"	640	00	
"	27	"	"	640	00	
"	28	"	"	640	00	
"	29	"	"	640	00	
"	30	"	"	640	00	All estimated
Whole section.....	31	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	
"	36	"	"	640	00	
"	1	"	18 E.	640	00	
"	2	"	"	640	00	
"	3	"	"	640	00	

DOCUMENT No. 63—Continued.

Description of the tract.	No. of section.	No. of township.	No. of range.	Area.		Remarks.
				Acres.	*Hdths.*	
Whole section.....	4	13	18 E.	640	00	
"	5	"	"	640	00	
"	6	"	"	640	00	
"	7	"	"	640	00	
"	8	"	"	640	00	
"	9	"	"	640	00	
"	10	"	"	640	00	
"	11	"	"	640	00	
"	12	"	"	640	00	
"	13	"	"	640	00	
"	14	"	"	640	00	
"	15	"	"	640	00	
"	17	"	"	640	00	
"	18	"	"	640	00	
"	19	"	"	640	00	
"	20	"	"	640	00	
"	21	"	"	640	00	
"	22	"	"	640	00	
"	23	"	"	640	00	
"	24	"	"	640	00	
1243 Section.....	25	13	18 E.	640	00	
"	26	"	"	640	00	
Section.....	27	"	"	640	00	
"	28	"	"	640	00	
"	29	"	"	640	00	
"	30	"	"	640	00	
"	31	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	
"	36	"	"	640	00	
"	1	"	19 E.	640	00	
"	2	"	"	640	00	
"	3	"	"	640	00	
"	4	"	"	640	00	
"	5	"	"	640	00	

DOCUMENT No. 63—Continued.

Description of the tract.	No. of section.	No. of township.	No. of range.	Area.		Remarks.
				Acres.	*Hdths.*	
Section	6	13	19 E.	640	00	
"	7	"	"	640	00	
"	8	"	"	640	00	
"	9	"	"	640	00	
"	10	"	"	640	00	
"	11	"	"	640	00	
"	12	"	"	640	00	
"	13	"	"	640	00	
"	14	"	"	640	00	
"	15	"	"	640	00	
"	17	"	"	640	00	
"	18	"	"	640	00	
"	19	"	"	640	00	
"	20	"	"	640	00	
"	21	"	"	640	00	
"	22	"	"	640	00	
"	25	"	"	640	00	All estimated
"	26	"	"	640	00	
"	28	"	"	640	00	
"	29	"	"	640	00	
"	30	"	"	640	00	
"	31	"	"	640	00	
"	32	"	"	640	00	
"	33	"	"	640	00	
"	34	"	"	640	00	
"	35	"	"	640	00	
"	36	"	"	640	00	
"	2	"	20 E.	640	00	
"	3	"	"	640	00	
"	4	"	"	640	00	
"	5	"	"	640	00	
"	6	"	"	640	00	
"	7	"	"	640	00	
"	8	"	"	640	00	
"	9	"	"	640	00	
"	10	"	"	640	00	
"	11	"	"	640	00	

DOCUMENT No. 63—Continued.

Description of the tract.	No. of section.	No. of township.	No. of range.	Area.		Remarks.
				Acres.	*Hdths.*	
1244 Section.....	14	13	20 E.	640	00	
"	17	"	"	640	00	
Section.....	18	"	"	640	00	
"	22	"	"	640	00	
"	23	"	"	640	00	
"	24	"	"	640	00	
"	26	"	"	640	00	
"	27	"	"	640	00	
"	28	"	"	640	00	
"	29	"	"	640	00	
"	30	"	"	640	00	
"	31	"	"	640	00	All estimated
"	32	"	"	640	00	
"	33	"	"	640	00	

GENERAL LAND OFFICE, May 7th, 1852.

I, John Wilson, acting Commissioner of the General Land Office, do hereby certify that the foregoing is a correct copy of the list of swamp and overflowed lands, selected for the State of Louisiana, under the act of Congress approved March 2nd, 1849, entitled "An act to aid the State of Louisiana, in draining the swamp lands therein"—in the district of lands subject to sale at New Orleans, Louisiana, taken from the original list on file in this office, which original list was submitted to the Secretary of the Interior, on the 4th day of May, 1852, for his action and decision thereon, and was by him returned on the 6th day of the same month, with a letter and an endorsement thereon, advising this office that he had approved the same in accordance with the provisions of the second section of the act aforesaid, and which list now remains on the files of this office.

In testimony whereof I have hereunto set my hand and caused to be affixed the seal of the General Land Office, at the city of Washington the day and year above written.

[SEAL.] (Signed) JOHN WILSON,
Acting Commissioner.

STATE OF LOUISIANA, }
City of Baton Rouge. }

I, Jas M. Smith, register of the State land office, do hereby certify that the annexed twelve pages *is* a true and correct extract, showing the approval, under the swamp land grant of 1849, of lands in T. 11 S., rgs. 17, 18, 19 & 20 E.; T. 12 S., rgs. 16, 17, 18, 19 &
20 E.; and T. 13 S., rgs. 16, 17, 18, 19 & 20 E., as appearing
1245 in record of "Swamp Lands, Approvals and Rejections, South Eastern District, Louisiana, vol. 1," on file in this office.

Given under my hand and seal of office, this 26th day of April, A. D. 1904.

[Seal of the Land Office, State of Louisiana.]

JAS. M. SMITH,
Register of the State Land Office.

(Endorsed:) Document No. 63 Offered by the State of Louisiana. April 28, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

(Here follow Documents Nos. 64 and 65, marked pp. 1246–1277, endorsed as follows:)

1257 (Endorsed.)

DOCUMENT No. 64.
Offered by the State of Louisiana April 28, 1904.
Frank H. Mortimer, Commissioner.

1278 (Endorsed.)

DOCUMENT No. 65.
Offered by State of Louisiana April 28, 1904.
Frank H. Mortimer, Commissioner.

DOCUMENT NO. 64

ABSTRACT OF ENTRIES

NAME OF PURCHASERS	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT — PART OF SECTION	SEC.	TOWN	RANGE	AREA	AMOUNT	RECORD — PATENT	VOL.	PAGE
Lake Borgne Levee Dist	April 2-1895	Transfer	All of	1	11S	17E	640.00	Act 320	14	1892	
" " " "	" " "	"	" "	2	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	11	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	14	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	22	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	23	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	25	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	26	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	27	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	28	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	33	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	34	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	35	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	36	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	5	"	18E	640.00	" "	"	"	
" " " "	" " "	"	" "	6	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	30	"	"	640.00	" "	"	"	
" " " "	" " "	"	S½ of Tract S.E. ¼ of S.W. ¼ of Tract S.E. ¼ and W½	31	"	"	440.00	" "	"	"	
Henry Florence	Nov 18-1859	7785 Pat.	all of fol	32							
			Tract 1½ of Tract S.E. ¼ and N.E. ¼ of fol	31	"	"	113.66	28.75			
Lake Borgne Levee Dist	April 2-1895	Transfer	All of	34	"	"	640.00	Act 320	14	1892	
" " " "	" " "	"	" "	33	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	35	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	36	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	1	"	19E	640.00	" "	"	"	
" " " "	" " "	"	" "	11	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	12	"	"	640.00	" "	"	"	
J. D. Gilmore	Nov 7-1887	770 Pat.	All of fol	13	"	"	320.00	40.00	1039	24	78
Lake Borgne Levee Dist	April 2-1895	Transfer	All of	14	Abd 320		14	1892			
" " " "	" " "	"	" "	15	"	"	"	"			
" " " "	" " "	"	" "	20	"	"	"	"			
" " " "	" " "	"	" "	21	"	"	"	"			
" " " "	" " "	"	" "	22	"	"	"	"			
" " " "	" " "	"	" "	23	"	"	"	"			
" " " "	" " "	"	" "	24	"	"	"	"			
" " " "	" " "	"	" "	25	"	"	"	"			
" " " "	" " "	"	" "	26	"	"	"	"			
" " " "	" " "	"	" "	27	"	"	"	"			

ABSTRACT OF ENTRIES

NAME OF PURCHASERS	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT — PART OF SECTION	SEC.	TOWN	RANGE	AREA	AMOUNT	RECORD — PATENT	VOL.	PAGE
Lake Borgne Levee Dist	April 2-1895	Transfer	All of	28	11 S	12 E	640.00	Act. Mar. 14-1892			
" " " "	" " "	"	"	30	"	"	640.00	" "	"	"	
" " " "	" " "	"	S½ of	29	"	"	320.00	" "	"	"	
" " " "	" " "	"	All of	31	"	"	640.00	" "	"	"	
S. Meloche	April 27-1894	2805 N.S.	A²	32							
			Frl SW¼	29	"	"	220.00	27.50	2294	28	210
Lake Borgne Levee Dist	April 2-1895	Transfer	Tract S½ of	32	"	"	320.00	Act Mar. 14-1892			
" " " "	" " "	"	All of	33	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	34	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	35	"	"	640.00	" "	"	"	
" " " "	" " "	"	" "	36	"	"	650.00	" "	"	"	
Joseph C. Gilmore	April 27-1894	2804 N.S.	E½ of E½ of NW¼	4	"	20 E	33.00	4.12	3093	28	209
J. C. Gilmore	March 15-1887	571 N.S.	Frl. W½ of E½ of W²	4							
			and Frl NE¼	5	"	"	276.00	34.50	3706	23	225
Lake Borgne Levee Dist	April 2-1895	Transfer	All of	9	"	"	640.00	Act Mar. 14-1892			
" " " "	" " "	"	NE¼ of	17	"	"	160.00	" "	"	"	
" " " "	" " "	"	NE¼ of	18	"	"	160.00	" "	"	"	
" " " "	" " "	"	NW¼ of NW¼ S½ of NE¼ & N½ of SE¼	19	"	"	280.00	" "	"	"	
W. V. Gilmore	April 11-1887	601 N.S.	All of	20	"	"	640.00	80.00	761	23	253
Lake Borgne Levee Dist	April 2-1895	Transfer	All of	27	"	"	640.00	Act Mar. 14-1892			
" " " "	" " "	"	S½ E¼ of	28	"	"	160.00	" "	"	"	
" " " "	" " "	"	NE¼ of	29	"	"	160.00	" "	"	"	
" " " "	" " "	"	N½ of	30	"	"	320.00	" "	"	"	
J. C. Gilmore	Mar. 7-1887	769 N.S.	Frl Sec 6 7 & 8 W¼	18							
			NE¼ of NW¼	19	"	"	990.00	123.70	1038	24	78
			and W²	31							
W. V. Gilmore	June 23-1887	659 N.S.	W½ of NW¼	17							
			SE¼ of	18							
			E½ of	19							
			W½ of	29	"	"	1840.00	230.00	870	23	307
			E½ of	30							
			E½ of	31							
			and W½ of	32							
J. C. Gilmore	April 7-1887	594 N.S.	W½ of NE¼	28							
			SE¼	29							
			E½ of	32	"	"	640.00	80.00	790	23	247
			W½ of NW¼	33							
Lake Borgne Levee Dist	April 2-1895	Transfer	All of, Except W½ of Tract NW¼	33	"	"	560.00	Act Mar. 14-1892			

ABSTRACT OF ENTRIES

NAME OF PURCHASERS	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT				AREA	AMOUNT	RECORD		
			PART OF SECTION	SEC.	TOWN	RANGE			PATENT	VOL.	PAGE
Sarah Borgne Levee Bd	April 2-1895	Transfer	All of	34	11 S	20 E	640.00	Act Aug 14-1892			
S. Mlacak	April 29-1895	2106	Fractl	35	"	"	170.00	2.12.5995	35	210	
Sarah Borgne Levee Bd	April 2-1895	Transfer	All of	36	"	"	640.00	Act Aug 14-1892			
" " " "	" " "	"	"	13	12 S	16 E	640.00	" " "	"	"	
" " " "	" " "	"	"	14	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	22	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	23	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	24	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	25	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	26	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	27	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	34	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	35	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	36	"	"	640.00	" " "	"	"	
Sarah Borgne Levee Bd	April 2-1895	Transfer	All of	1	"	17 E	640.00	Act Aug 14-1892			
" " " "	" " "	"	"	2	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	9	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	11	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	7	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	8	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	9	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	10	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	11	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	12	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	13	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	14	"	"	640.00	" " "	"	"	
Sarah Borgne Levee Bd	April 2-1895	Transfer	All of	15	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	17	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	18	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	19	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	20	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	21	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	22	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	23	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	24	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	25	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	26	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	27	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	28	"	"	640.00	" " "	"	"	
" " " "	" " "	"	"	29	"	"	640.00	" " "	"	"	

ABSTRACT OF ENTRIES

NAME OF PURCHASERS	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT				AREA	AMOUNT	RECORD		
			PART OF SECTION	SEC.	TOWN	RANGE			PATENT	VOL.	PAGE
Jose Borgne Levee Bd	April 2 1895	Transfer	All of	30	12 S	17 E	640.00	Act March 14-1892			
" " " "	" " "	"	" "	31	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	32	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	33	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	34	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	35	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	36	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	1	"	18 E	640.00	" " "	"	"	
" " " "	" " "	"	" "	2	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	3	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	4	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" " East of Bayou	5	"	"	316.36	" " "	"	"	
Mrs Ann Gordan	April 28-1897	696	All of Lot	5							
			All of Lot West of Bayou	8	"	"	229.06	68.72			
Jose Borgne Levee Bd	April 2-1895	Transfer	All of	6	"	"	640.00	Act March 14-1892			
" " " "	" " "	"	"	7	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" " East of Bayou	8	"	"	193.94	" " "	"	"	
" " " "	" " "	"	" "	9	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	10	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	11	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	13	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	14	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	15	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	17	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	18	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	19	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	20	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	21	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	22	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	23	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	24	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	25	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	26	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	29	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	30	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	31	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	32	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	33	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	34	"	"	640.00	" " "	"	"	
" " " "	" " "	"	" "	35	"	"	640.00	" " "	"	"	

ABSTRACT OF ENTRIES

NAME OF PURCHASERS	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT — PART OF SECTION	SEC.	TOWN	RANGE	AREA	AMOUNT	RECORD — Patent	Vol.	Page
Jane Boyd & Lou Boyd	June 2 1891	Transfer	All of	36	12 S	1 E	640.00	800.00	14 1892		
" " " "	" " "	"	" "	1	"	1 E	640.00	"	"	"	
" " " "	" " "	"	" "	2	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	3	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	4	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	5	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	6	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	7	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	8	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	9	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	10	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	11	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	12	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	13	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	14	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	15	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	19	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	20	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	21	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	22	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	23	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	24	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	25	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	26	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	27	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	28	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	29	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	30	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	31	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	32	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	33	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	34	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	35	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	36	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	1	"	2 E	640.00	"	"	"	
" " " "	" " "	"	" "	2	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	3	"	"	640.00	"	"	"	
" " " "	" " "	"	" "	4	"	"	640.00	"	"	"	
" " " "	" " "	"	S ½ NE ¼	5	"	"	80.00	"	"	"	
J. C. Gilmore	April 1 1891	182	SW ¼ NE ¼	5	"	"	80.00	10.00	207	29	247

ABSTRACT OF ENTRIES

NAME OF PURCHASERS	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT — PART OF SECTION	SEC.	TOWN	RANGE	AREA	AMOUNT	RECORD — PATENT	VOL.	PAGE
J. C. Gilmore	Nov 7-1857	7711 Ark	W½ NE¼ E of Ark	6	12 S	2 E	160 00	20 00	10420	24	39
Samuel L. Gilmore	Sept 12-1857	7719 Ark	S½ and NW¼	5							
			S½ of E½ and NE¼ of SE¼	6	"	"	1010 00	125 00	961	24	39
			NE¼ N½ of SE¼	7							
			and NW¼	8							
Lands Bought Low Co.	April 2-1852	Transfer	NE¼ of SE¼ W½ of NW¼								
			and SW¼ of	6	"	"	210 00	262 50	10-14-1892		
" " " "	" " "	"	All of	9	"	"	640 00	"	"	"	"
" " " "	" " "	"	S½ of SE¼ of	7	"	1	400 00	"	"	"	"
" " " "	" " "	"	SW¼ and SE¼ of	8	"	"	480 00	"	"	"	"
" " " "	" " "	"	All of	10	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	11	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	17	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	18	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	19	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	20	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	21	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	28	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	29	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	30	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	31	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	32	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	1	12 S	16 E	640 00	"	"	"	"
" " " "	" " "	"	" "	2	"	"	640 00	"	"	"	"
" " " "	" " "	"	E½ of E½ of	3	"	"	160 00	"	"	"	"
Stephen Meloche	August 1-1853	5818 Ark	SW¼ of NW¼ W½ of SE¼								
			and E½ of SW¼	3	"	"					
			E½ of NW¼	10							
Lands Bought Low Co.	April 2-1852	Transfer	NE¼ and S½ of	10	12 S	16 E	480 00	262 50	10-14-1892		
" " " "	" " "	"	all of	11	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	12	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	13	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	14	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	15	"	"	640 00	"	"	"	"
" " " "	" " "	"	All of 1, 2, 3, 4, 7, 14, 15								
			and W½ of E½ and W½ of W½	22	"	"	294 64	"	"	"	"
" " " "	" " "	"	all of	21	"	"	640 00	"	"	"	"

ABSTRACT OF ENTRIES

NAME OF PURCHASERS	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT — PART OF SECTION	SEC.	TOWN	RANGE	AREA	AMOUNT	RECORD — PATENT	VOL.	PAGE
Louis Talmus	May 30, 1861	3485	Lots 5, 6, 10, 11, 12, 13, 16, 17, 18, 19 & 20 N½ of NE¼								
			SE¼ of NE¼	23							
			All of fml (NE of Bayou)		18S	16E	836 24	214 06	1939	11	260
			S.L. maule	24							
			SW¼ of NW¼	23							
			All of fml	28							
Lasle Bogne Levee Bd	April 2-1895	Transfer	Lot 1, E½ of NW¼, NE¼	23	"	"	379 72	acct	220	14	1892
" " " "	" " "	"	All of	24	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	25	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	26	"	"	640 00	"	"	"	"
Louis Talmus	Feby 28-1861	1950	All of fml	27	"	"	602 44	150 61			
Lasle Bogne Levee Bd	April 2-1895	Transfer	All of	32	"	"	640 00	acct	220	14	1892
Mary C. Gordon	Jany 12-1853	" "	All SE¼ N of Bayou								
			SE¼ male except SE¼								
			of SE¼ and W½ of SW¼ of fml	33	"	"	278 62	348 27	726	1	251
W. A. Gordon	July 5-1854	772	Bal. Except 2 acres in SE¼ of SE¼ and SW¼ of NE¼	33	Decided Wrong						
			That portion of E½ of W of Bayou SE maule	34	"	"	306 90	383 62	7852	33	114
Bernard Bermudez	July 24-1854	801	Lot 1 of	33	"	"	46 08	57 60			
Lasle Bogne Levee Bd	April 2-1895	Transfer	All of	35	"	"	640 00	acct	220	14	1892
" " " "	" " "	"	" "	36	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	1	"	17E	640 00	"	"	"	"
" " " "	" " "	"	" "	2	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	3	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	4	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	5	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	6	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	7	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	8	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	9	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	10	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	11	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	12	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	13	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	14	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	15	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	17	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	18	"	"	640 00	"	"	"	"
" " " "	" " "	"	" "	19	"	"	640 00	"	"	"	"

ABSTRACT OF ENTRIES

NAME OF PURCHASERS	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT — PART OF SECTION	SEC.	TOWN	RANGE	AREA	AMOUNT	RECORD — Patent	Vol.	Page
Lake Bayou Levee Bd	April 2-1895	Transfer	All of	20	19 S	17 E	640.00	Act Aug. 14-1892			
" " "	" " "	"	" "	21	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	22	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	23	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	24	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	25	"	"	640.00				
" " "	" " "	"	" "	26	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	27	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	28	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	29	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	30	"	"	640.00	" " "	"	"	
Annie Duncan	Aug 28-1869	255	SW¼ of	31	"	"	160.00	40.00			
Alexander Duncan	" " "	339	SE¼	31	"	"	160.00	40.00			
J. M. Stevens	Nov 29-1854	55-189	NE¼	31							
			NW¼	32	"	"	320	80.00	44	15	69
Lake Bayou Levee Bd	April 2-1895	Transfer	NW¼ of	31	"	"	160.00	Act Aug. 14-1892			
A. H. Morse	Nov 20-1854	52-104	S½ of	32	"	"	320	80.00	143	15	68
Peter and Phinigan	Jany 7-1865	92	NE¼	32	"	"	160	40.00			
Henry McGuinness	Jany 9-1865	106-189	NW¼ SW¼ of 16 S. R.	33	"	"	320	120.00	117	15	55
Lake Bayou Levee Bd	April 2-1895	Transfer	W½ of NW¼ and SE¼ of NE¼ of	33	"	"	120.00	Act Aug. 14-1892			
" " "	" " "	"	All of	34	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	35	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	36	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	1	"	18 E	640.00	" " "	"	"	
" " "	" " "	"	" "	2	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	3	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	4	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	5	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	6	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	7	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	8	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	9	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	10	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	11	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	12	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	13	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	14	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	15	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	17	"	"	640.00	" " "	"	"	
" " "	" " "	"	" "	18	"	"	640.00	" " "	"	"	

ABSTRACT OF ENTRIES

NAME OF PURCHASERS	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT				AREA	AMOUNT	RECORD		
			PART OF SECTION	SEC.	TOWN	RANGE			PATENT	VOL.	PAGE
Jose Borrego Lewis Bl	Aug 3-1875	Transf.	All of	19	18 S	18 E	640.00	acK	10-14-1879	2	
" " " "	" " "	"	" "	20	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	21	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	22	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	23	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	24	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	25	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	26	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	27	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	28	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	29	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	30	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	31	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	32	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	33	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	34	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	35	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	36	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	1	"	19 E	640.00	"	"	4	
" " " "	" " "	"	" "	2	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	3	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	4	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	5	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	6	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	7	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	8	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	9	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	10	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	11	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	12	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	13	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	14	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	15	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	17	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	18	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	19	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	20	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	21	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	22	"	"	640.00	"	"	4	
" " " "	" " "	"	" "	23	"	"	640.00	"	"	4	

ABSTRACT OF ENTRIES

NAME OF PURCHASER	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT — PART OF SECTION	SEC.	TOWN	RANGE	AREA	AMOUNT	RECORD — Patent	Vol.	Page
Louis Bergue Louisville Ohio	Nov 19 95	Trans.	All of	26	19S	19E	640.00	Dec 30-94-1892			
" " " "	" "	"	" "	28	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	29	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	30	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	31	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	32	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	33	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	34	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	35	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	36	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	2	"	20E	640.00		"	"	"
" " " "	" "	"	" "	3	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	4	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	5	"	"	640.00		"	"	"
" " " "	" "	"	" "	6	"	"	640.00	"	"	"	
" " " "	" "	"	" "	7	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	8	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	9	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	10	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	11	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	14	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	17	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	18	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	22	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	23	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	24	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	26	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	27	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	28	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	29	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	30	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	31	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	32	"	"	640.00	"	"	"	"
" " " "	" "	"	" "	33	"	"	640.00	"	"	"	"

ABSTRACT OF ENTRIES

NAME OF PURCHASERS	DATE OF ENTRY	NUMBER OF CERTIFICATE	DESCRIPTION OF TRACT				AREA	AMOUNT	RECORD		
			PART OF SECTION	SEC.	TOWN	RANGE			PATENT	VOL.	PAGE
State of Louisiana State Land Office Baton Rouge											

I, Jas. M. Smith, Register of the State Land Office, do hereby Certify the within and foregoing to be a true and correct abstract of the Entries in the above Townships and Ranges, as shown by the Official Tract Record on file in this office.

Given under my hand and Seal of office at the City of Baton Rouge, on this the 26th day of April A. D. 1902.

Jas. M. Smith
Register of the State Land Office

Non Residents Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1	2	3	4		5	6	7	
	Gilmore H. V.		1		7		Prairie Lands on Gulf of Mexico		50								
	Gilmore H. V.				7		Prairie Lands on Gulf of Mexico		50								
	Gilmore J. C.				7		Prairie Lands on Gulf of Mexico		50								
	Gilmore J. C.				7		Prairie Lands on Gulf of Mexico		50								

Parish of St Bernard 1889 1904.

OF TAXATION.

									TOTAL ASSESSMENT		STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	LEVEE TAX	TOTAL TAX
									WHITE	COLORED						
									60		50	40		50		150
									50		50	50		50		150
									50		50	50		50		150
									50		50	50		50		150

I Certify the above and foregoing to be a true and Correct List of Assessments and Taxes of the Parish of St Bernard, State of Louisiana, for the year 1889 as shown from the Assessment Rolls on file and of record in my Office.

C. Schmidt
Assessor

Parish of St Bernard
April 1st 1889.

Parish of St Bernard

Non Residents.

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2 Cash value in lots, manner or parcels of ground, in incorporated or unincorporated Cities, Towns or Villages, with residences or other improvements thereon	3 Cash value of Horses, Mares, Mules, Geldings, Colts, Sheep, Goats, Hogs, and all other Live Animals.	4 Cash value of all Wagons, Carts, Buggies, Carriages and all other Vehicles.	5 Cash value of all Merchandise on Hand in Trade.	6 Cash value to be listed on actual market value of capital stock, shares, etc. of all persons, associations of persons, business firms, companies and banks less that real estate
	Gilmore W. V.				6		Swamp Lands on Gulf of Mexico		50					
	Gilmore W. V.				6		Swamp Lands on Gulf of Mexico		50					
	Gilmore J. C.				6		"		50					
	Gilmore J. C.				6		"		50					
	Gilmore J. C.				6		"		50					
	Gilmore J. C.				6		"		50					
	Gilmore J. C.				6		"		50					
	Gilmore J. C.				6		"		50					
	Gilmore J. C.				6		"		50					

Parish of St. Bernard 1890 ~~1894~~.

OF TAXATION.

6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT		STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
Cash value to be listed on actual market value of capital stock, shares, etc., of all persons, associations of persons, business firms, corporations and posts less than real estate.	Cash value of Household Goods, Silverplate, Jewelry, etc. not exempt from taxation.	All Moneys loaned or in possession.	Cash value of all bonds liable to taxation. Notes, Judgments and other credits.	Cash value of all Steamboats, Steamships, Barges and other watercraft	Cash value of Annuities, Salaries, Incomes, etc., of all persons, associations of persons, of business firms and corporations not subject to license.	Cash value of all property and things employed in the matter of display.	Cash value of all other property subject to taxation	Actual cash value of Land or lots and improvements, machinery and implements thereon, not especially for purposes of taxation as required by latter part of Sec. 17, Act 130 of 1890	WHITE	COLORED						
									50		30	50		50		130
									50		30	50		50		130
									50		30	50		50		130
									50		30	50		50		130
									50		30	50		50		130
									50		30	50		50		130
									50		30	50		50		130
									50		30	50		50		130
									50		30	50		50		130

I Certify the above and foregoing Tables or Lists of Property to stand & for the assessment Rolls of the Parish of St. Bernard, State of Louisiana, for the year 1890 as taxable & from the Original Rolls on file and of record in my Office

A. Bienvenu
Assessor
Parish of St. Bernard

Parish of St. Bernard
Oct. 1st 1890.

Non Residents.

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2	3	4		8 Cash value of all Merchandise or Stock in Trade.	9	
	Gilmore W. V.				6		Swamp Lands on the Gulf of Mexico		50							
	Gilmore W. V.				6		"		50							
	Gilmore J. C.				6		"		50							
	Gilmore J. C.				6		"		50							
	Gilmore J. C.				6		"		50							
	Gilmore J. C.				6		"		50							
	Gilmore J. C.				6		"		50							
	Gilmore J. C.				6		"		50							
	Gilmore J. C.				6		"		50							

Parish of St Bernard 1891. [redacted].

OF TAXATION.

6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT		STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
	Cash value of Household Goods, Silverplate, Jewelry, etc. not exempt from taxation.	All Moneys loaned or in possession.	Cash value of all bonds liable to taxation, Notes, Judgments and other credits.	Cash value of all Steamboats, Steamships, Steamboilers and watercraft.	Cash value of all persons, associations, Societies, Insurance, etc., of all persons, associations or persons from and corporations not subject to license.	Cash value of all property belonging or employed in the parish (as assessed).	Cash value of all other property subject to taxation	Actual cash value of Land or town lots in improvements, machinery and implements thereon, not especially for purposes of taxation as required by under part of sec. 12, Act 170 of 1890	WHITE	COLORED						
									60		2.0	5.0		5.0		13.0
									50		3.0	5.0		5.0		13.0
									50		3.0	5.0		5.0		13.0
									50		3.0	5.0		5.0		13.0
									50		3.0	5.0		5.0		13.0
									50		3.0	5.0		5.0		13.0
									50		3.0	5.0		5.0		13.0
									50		3.0	5.0		5.0		13.0
									50		3.0	5.0		5.0		13.0

I Certify the above and foregoing to be a true & correct extract from the assessment Rolls of the Parish of St Bernard, State of Louisiana, for the year 1891 as taken from the original Rolls on file in my Office.

Assessor

Parish of St Bernard.
April 22nd 1892

Parish of St Bernard.

Non Residents

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2	3	4	5 Cash value of all Materials other than Stock in Trade.	6	7
	Gilmore W. F.		.		6		Swamp Lands on Gulf of Mexico		50						
	Gilmore W. F.		.		6		" " " " " "		50						
	Gilmore J. C.		.		6		" " " " " "		50						
	Gilmore J. C.		.		6		" " " " " "		50						
	Gilmore J. C.		.		6		" " " " " "		50						
	Gilmore J. C.		.		6		" " " " " "		50						
	Gilmore J. C.		.		6		" " " " " "		50						
	Gilmore J. C.		.		6		" " " " " "		50						
	Gilmore J. C.				6		" " " " " "		50						

Parish of St Bernard 1892.

OF TAXATION.

6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT	
									WHITE	COLORED
									52	
									52	
									52	
									52	
									52	
									52	
									52	
									52	
									52	
									52	

I [illegible] do
[illegible] Assessment Roll of the Parish of St Bernard for the year 1892 as the original is now in my office

Parish of St Bernard
Office [illegible] 1892

Non Residents

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2	3	4	5	6	7	8
	Gilmore W. V.		.		6		Swamp Lands on Gulf of Mexico		$0							
	Gilmore W. V.		.		6		" " " " "		$0							
	Gilmore J. C.		.		6		" " " " "		$0							
	Gilmore J. C.		.		6		" " " " "		$0							
	Gilmore J. C.		.		6		" " " " "		$0							
	Gilmore J. C.		.		6		" " " " "		$0							
	Gilmore J. C.		.		6		" " " " "		$0							
	Gilmore J. C.		.		6		" " " " "		$0							
	Gilmore J. C.		.		6		" " " " "		$0							
	Gilmore J. C.		.		6	18 3/4	S Eastern Lands District containing the Whole of Sec on Peter and other Islands: 1st Fract Sec Nos 23 24 25 & 26. T 12 S of R 20 East Containing 106 3/4 Acres 2d Fract Sec 34 & 35 T 12 S of R 20 East Containing 86 3/4 Acres 3d Fractional Sec Nos 27 28 & 33 T 12 S of R 20 East Containing 318 3/4 Acres.		$0							
	Gilmore J. C.		.		6	22 3/4	S Eastern Lands Dist of La adjacent to Sec on Peter Bay Islands in Sec 20. 21. 28 & 29. T 12 S of R 20 East South Eastern Dist of Florida Meridian Containing 22 3/4 Acres.		$0							

Parish of St Bernard 1893. ~~1904~~.

1129

OF TAXATION.

6 Cash value to be based on 20% of market value of capital stock, shares, etc. of all persons, associations of persons, business firms, corporations and public less than full value.	7 Cash value of Household Goods, Silverplate, Jewelry, etc not exempt from taxation.	8 All Moneys loaned or in possession.	9 Cash value of all bonds liable to taxation, Notes, Judgments and other credits.	10 Cash value of all Mortgages, Privileges, Rights and other Securities.	11 Cash value of Annuities, Salaries, Incomes, etc., of all persons, associations of persons or business firms and corporations not subject to taxation.	12 Cash value of All property and things not herein enumerated in the order in which.	13 Cash value of all other property subject to taxation	14 Actual cash value of Land or lots and improvements, machinery and appurtenances thereto, and especially the property assessed for taxation as required by Section 3 of Act No. 17, Act No. of 1898	TOTAL ASSESSMENT WHITE	TOTAL ASSESSMENT COLORED	STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
									50		20	50		50		120
									50		30	60		60		150
									50		30	60		60		150
									50		30	60		60		150
									50		30	50		50		130
									50		30	50		50		130
									50		30	50		50		130
									50		30	50		50		130
									50		30	60		60		150
									50		30	50		50		130

I Certify the above and foregoing to be a true & correct extract from the Assessment Rolls of the Parish of St Bernard State of Louisiana for the year 1893 as taken from the Original Rolls on file and of record in my Office.

W. O. Gonzales
Assessor
Parish of St Bernard

Parish of St Bernard
April 6th 1904

Non Residents.

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	Objects 1	2	3	4	5	6
	Gilmore W. W.				6		Swamps & Lands on Gulf of Mexico		37					
	Gilmore W. W.				6		"		37					
	Gilmore J. C.				6		"		37					
	Gilmore J. C.				6		"		37					
	Gilmore J. C.				6		"		37					
	Gilmore J. C.				6		"		37					
	Gilmore J. C.				6		"		38					
	Gilmore J. C.				6		"		38					
	Gilmore J. C.				6		"		38					
	Gilmore J. C.				6	1411/28	S. Eastern Land District embracing the Whole of Sec 20 Petit & other Lands 1st Fract Sect 23. 24. 25. & 26. T.S.10. S. of R. 20 East. Containing 460 3/4 Acres. 2nd Fract Sect 33 & 34. T.S.10. S. of R. 20 East Containing 509 3/4 Acres. 3rd Fract Sect 27. 28. & 32. T.S.10. S.R 20 East Containing 380 7/28 Acres		38					
	Gilmore J. C.				6	50 7/28	S. Eastern Dist of Louisiana adjacent to Sec 20 Petit Orig. Islands in Sect 20. 21. 28. & 29. T.S.10. S. of R. 20. East South Eastern End of River Land District Containing 50 7/28 Acres		38					

Parish of St Bernard 1894 ~~1893~~.

OF TAXATION.

6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT WHITE	TOTAL ASSESSMENT COLORED	STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
									37		22	37		37		96
									37		22	37		37		96
									37		22	37		37		96
									37		22	37		37		96
									37		22	37		37		96
									37		22	37		37		96
									38		22	38		38		98
									38		22	38		38		98
									38		22	38		38		98
									38		22	38		38		98
									38		22	38		38		98

I certify the above and foregoing to be a true and correct extract from the Assessment Rolls of the Parish of St Bernard, State of Louisiana, for the Year 1894. as taken from the Original Rolls on file & of record in my Office.

A. V. Bergeby
Assessor
Parish of St Bernard.

Parish of St Bernard
April 8th 1894

Non Residents

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1	2	3	4
	Louisiana Navigation Co. Ltd		.		6	642½	Acres Situated in S. E. Land District of Louisiana, embracing the Islands known as Isle au Pitre and other lands.		100			

Parish of St Bernard 1895 [illegible]

1192

OF TAXATION.

TOTAL ASSESSMENT		STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
WHITE	COLORED						
100		60	100		100		260

I certify the above and foregoing to be a true and correct extract from the Assessment Rolls of the Parish of St Bernard, State of Louisiana, for the year 1895, as returned from the Original Rolls and filed and of record in my office.

A. A. Chmyabs
Assessor
Parish of St Bernard

Parish of St Bernard
April 22nd 1895

Non Residents

Assessment Roll for the

No	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Taxed	OBJECTS 1	2	3	4	5	6	7
1	Louisiana Navigation Co Limited				6	[illegible]	Situated — do A & Land District of La. containing the Islands known as Lake Pelto and other lands		2.00						

Parish of St Bernard 1896 1904. 1123

OF TAXATION.

									TOTAL ASSESSMENT		STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	SCHOOL TAX	TOTAL TAX
									400		240	400		400		1040

Parish of St Bernard
October 1st 1904

Non Residents

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2 Cash value in lots, squares or parcels of ground, in incorporated or unincorporated Cities, Towns or Villages, with residences, or other improvements thereon.	3 Cash value of Horses, Mules, Neat Cattle, Sheep, Goats, Hogs, and all other Live Animals.	4 Cash value of all Wagons, Carts, Buggies, Carriages and all other Vehicles.	5 Cash value of Merchandise and Stock in Trade.	6 Cash value to be based on actual market value of capital stock, shares, etc., of all persons, associations of persons, business firms, corporations and gains less than real estate.	7 Cash value of Household Furniture, Gold and Silver Plate, Watches, Jewelry, and all other personal property not herein enumerated.
	Louisiana Navigation Co. Ltd				6	63 12/100	Situated in the S. E. land District of La, embracing the Island known as the Isle au Pitre and other lands		400						

Parish of St Bernard 1897 ~~1904~~. 1124

OF TAXATION.

7 Cash value of Household Goods, Silverplate, Jewelry, etc., not exempt from taxation.	8 All Moneys loaned or in possession.	9 Cash value of all bonds taxable by taxation, Notes, Judgments and other credits.	10 Cash value of all Steamboats, Steamships, barges and other watercraft.	11 Cash value of Annuities, Salaries, Incomes, etc., of all persons, associations of persons or business firms and corporations not subject to license.	12 Cash value of all property and things embraced in the 9 prior to deduction.	13 Cash value of all other property subject to taxation	14 Actual cash value of Land or lots and improvements, machinery and implements thereon not especially for purposes of taxation as required by latter part of Sec. 17, Act 170 of 1898	TOTAL ASSESSMENT WHITE	TOTAL ASSESSMENT COLORED	STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
								400		240	400		400		1040

I Certify the above and foregoing to be a true and correct extract from the assessment Rolls of the Parish of St Bernard State of Louisiana for the year 1897 as taken from the Original Rolls now filed of record in my Office

Parish of St Bernard
April 6th 1904

Parish of St Bernard

Non Residents

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2	3	4	5	6	7
	Louisiana Navigation Co Ltd		-		6	63/100	Situated on the S.E. bank of Bush's Lake, embracing the Island known as the Isle au Pitre and other lands.		1.00						

Parish of St. Bernard 1898 ~~1904~~.

OF TAXATION.

6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT WHITE	TOTAL ASSESSMENT COLORED	STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
									400		240	400		400		1040

I certify the above and foregoing to be a true and Correct extract from the Assessment Rolls of the Parish of St Bernard, State of Louisiana, for the year 1898. as taken from the Original Rolls on file and of record in my Office

A. P. Gonzales
Assessor.

Parish of St Bernard.
April 2nd 1904

Parish of St Bernard.

5	6	7

Non Residents

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2	3	4	5	6
	Louisiana Navigation Co. Limited				6	1012 39/100	Situated in the S. E. Land Distt of La. embracing the Islands known as Isle au Pitre and other lands.		400					
	Sawyer Charles				7	1132 0	Fract South ½ of Sec. 15. East ½ fract S. W. ¼ and Fract East ½ of N.W. ¼ of Sec. 21. All of Sec. 22. 27. & 28. North ½ of Sec. 33. N.½ of Sec. 34. Containing (1440) acres and the S.½ of N.W.¼ & S.W.¼ of Sec. 28. W.½ of N.E.¼ & W.½ of Sec. 26. W.½ of N.E.¼ & N.W.¼ of Sec. 35. Containing 480 acres. All situated in T.S. 11. S.R. 19. East, in the South Eastern Land Distt East of Miss River and aggregating (1132 0. acres)		540					

Parish of St Bernard 1899 1904.

OF TAXATION.

6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT WHITE	TOTAL ASSESSMENT COLORED	STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
									400		240	400		400		1040
									560		336	560		560		1456

I certify the above and foregoing to be a true and correct Assessment of the Property of the Parish of St Bernard State of Louisiana for the year 1899. as taken from the Original Roll on file in my office.

W C Gonzales
Assessor

Parish of St Bernard
June 5th 1900

Parish of St Bernard

New Residents

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Wool	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	Value of Real Estate	OBJECTS 1	2	3	4	5	6
	Louisiana Navigation Co													
							Situated in the S. to Land Dist of La containing the Islands, Towns &c &c in Rock & other Lands		2 00					
	Simon Charles													
	Alfred L. Reed													
	Chas F. Forsyth &													
	John M. Brown				7	322	Grad S 1/2 of Sec 15 East 1/2 fr. S of N 1/4 & Grad East 1/2 of N W 1/4 of Sec 21 All of Lots 1, 2, 3, & all North 1/2 of Sec 28 N 1/2 of Sec 26 Containing (322 acres) more or less the S 1/2 of N W 1/4 & S W 1/4 of Sec 23 N 1/2 of N E 1/4 & N W 1/4 of Sec 26 N 1/2 of N E 1/4 & S W 1/4 of Sec 25 Containing (160 acres) All situated in Tp No 11 N of R 12 East in the South Eastern Land Dist West of Miss River and Containing 482 acres		5 00					

Parish of St Bernard. 1900 ~~1904~~.

OF TAXATION.

1127

7	8	9	10	11	12	13	14	TOTAL ASSESSMENT		STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
								WHITE	COLORED						
								200		120	200		200		620
								640		324	540		540		1404

I certify the above and foregoing to be a true & correct extract from the assessment Rolls of the Parish of St Bernard State of Louisiana, for the year 1900 - as taken from the original Rolls on file and of record in my Office.

A B Gonzales
Assessor

Parish of St Bernard
April 2nd 1904.

Parish of St Bernard

Non Residents

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2	3	4	5	6	7
	Dunbar Sec 24		"		19	2132.76	S.E¼ of N.E¼. S.E¼. of S.W.¼ & S.E¼ of Sec. 11. 240 acres, N.E¼. Sec. N.E¼ of N.W.¼. S.½ of N.W¼ & S.½ of Sec. 12. 600 acres. All of Sec. 13. 640. acres. N.½ of N.W.¼ & E½ of Sec. 23. 400. acres. All of Sec. 24. 640. acres. All of Sec. 25. 640. acres. E½ of N.E.¼ & S.E¼ of Sec. 26. 240 Acres. West ½ of N.E¼ & Sec. 35. 80. acres. North ½ of South ½ and South ½ of N.½ of Sec. Sec. 480. acres in T.S. 11. S. of R. 19 East. Also the N.W.¼. of N.W.¼ & South ½ of N.W.¼ & S.W.¼. of Sec. 19. 280 acres. East ½ of Sec. 30 326. acres. in T.S. 12 S. of R. 20 East. Also All and entire the Islands designated as Preacher's Islands embracing all of Frac. Sec. 13. 8.32 acres. All Frac. Sec. 14. 141.52 Acres. All of Frac. Sec. 15. 108.84 acres. All of Fractional Sec. 22. 53.20 All of Frac. Sec. 23. 144.24 acres. and the West ½ of Sec. 24. 151.28 acres. T.S. 12. S. of R. 19 East. in the South Eastern Land Dist. East of the Three Rivers and Containing in the aggregate (5152.76 Acres)		644						

Parish of St Bernard 1900 — 1904. Continued

OF TAXATION.

1	6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT WHITE	TOTAL ASSESSMENT COLORED	STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
										6.-		18.-	6.-		6.-		1666

I certify the above & foregoing to be a true & correct abstract from the assessment Rolls of the Parish of St Bernard for State & Parish purposes for the year 1904 as taken from the original Rolls on file in my Office.

Parish of St Bernard.
April 22nd 1904.

O K Gernaby
Assessor
Parish of St Bernard

Non Residents.

Assessment Roll for the

Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2	3	4	5	6
Dunbar Geo W.		.		7	532 22/100	S.E. 1/4 of N.E. 1/4. S.E. 1/4. of S.W. 1/4. & S.E. 1/4. of Sec. 11. 240. acres. N.E. 1/4. Sec. N.E. 1/4. of N.W. 1/4. S. 1/2. of N.W. 1/4. & S. 1/2. of Sec. 12, 480. acres. All of Sec. 13. 640. acres. N. 1/2. of N.W. 1/4. & E. 1/2. of Sec. 23. 400 acres. All of Sec. 24. 640. acres. All of Sec. 25. 640. acres. East 1/2. of N.E. 1/4. & S.E. 1/4. of Sec. 26. 240. acres. East 1/2. of N.E. 1/4. of Sec. 35. 80 acres. N. 1/2. of S. 1/2. & S. 1/2. & N. 1/2. of Sec. 36. 480. — T.S. 11 S. of R. 19. E. & All N.W. 1/4. of N.W. 1/4. Sec. W. 1/2. of N.W. 1/4. & S.W. 1/4. of Sec. 19. 280. acres. West 1/2. of Sec. 30. 320. acres in T.S. 11. S. of R. 20 East. Also all & singular the Islands designated as Pinckney Island, embracing all of Fract. Sec. 13. 8 3/10 acres. All of Fract. Sec. 14. 141. 7/10 Acres. All of Fract. Sec. 15. 183 7/10 acres. All & Fract. Sec. 22. 533 3/10 acres. All of Fract. Sec 23. 114. 9/10 acres. and the Fract. West 1/2. of Sec. 24. 151 2/10 Acres. T.S. 12. S. of R. 19. E. in the South Eastern Land District East of Miss River. & Containing in the Aggregate (5132 22/100 Acres)		641					
Louisiana Navigation Co. Prop'r		.		6	632	Situated in the S. Eastern Land Dist of La embracing the Islands known as Polk and Pelican & other Lands		200					
Sanger Charles. All of L. Hunt Chas F. Forsyth Rep'r John McBrand		.		7	1120	Fract South 1/2. of Sec. 15. East 1/2. fract S.W. 1/4 & fract East 1/2. of N.W. 1/4. of Sec. 21. All of Sec 22. 27. 28. N. 1/2. of Sec. 33. N. 1/2. of Sec 34. Containing 3480 Acres & the E. 1/2 of N.W. 1/4. & S.W. 1/4. of Sec. 23. W. 1/2. of N.E. 1/4. & W. 1/2. of Sec. 26. W. 1/2. of N.E. 1/4. & N.W. 1/4. of Sec. 35. Containing 960 acres. All Situated in T.S. No. 11. S. R. 19. East in the South Eastern Dist. East of Miss River. & aggregating (4320. Acres)		640					

Parish of St Bernard 1901. 1904.

OF TAXATION.

6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT WHITE	TOTAL ASSESSMENT COLORED	STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
									641		38 46	641		641		1646
									200		120	200		200		520
									520		312	520		520		1352

I certify the above & foregoing to be a true and Correct Extract from the assessment Rolls of the Parish of St Bernard & State of Louisiana for the year 1901 as taken from the original Abstract on file and of record in my Office

Parish of St Bernard
1901 Dec 2nd 1901

Parish of St Bernard

Non Residents

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	Whole	Quarter	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation	When Paid	OBJECTS 1	2	3	4	5	6
	Dunbar Sec 11					0112½	S½ of S.E¼ S½ of S.W¼ & S½ of Sec 11 & 200 acres N½ by Sec No 14 of W½ S.E¼ of S.E¼ & South ½ of Sec 12 & 320 Acres All of Sec 14 & 640 acres N.½ of W.½ & East ½ of Sec 23 & 160 acres All of Sec 24 & 640 acres All of Sec 25 & 640 Acres East ½ of N.E¼ & S.E¼ of Sec 26 & 640 acres East ½ of N.E¼ of Sec 35 & 80 acres North ½ of South ½ & S.½ & N.½ of Sec 36 & 480 acres in P.S. 11 S of R. 1 East & the N.W¼ of N.W¼ S.½ of N.W¼ & S.W¼ of Sec 19 & 280 acres N.½ of Sec 30 320 acres in P.S. 11 S of R. 2 E Also all & entire the Islands designated as Peaceless Island embracing all of Fract Sec 11 & 80 Acres All of Fract Sec 12 & 161.20 Acres All of Fract Sec 13 & 103.20 Acres All of Fractional Sec 22 & 32.20 Acres All of Fractional Sec 23 & 11.20 Acres and the Fract West ½ of Sec 24 & 161.20 Acres P.S. 12 S of R. 1 East in the S. Easterly Land Dist Bank of Arrow River and Containing in the aggregate 1112.20 Acres		661					
	Hanson John S					0160	Sec. 20. Containing 640 Acres more or less " 28 " 640 " " " " 34 " 640 " " " " 36 " 640 " " " 2560 All of the above Sections being in P.S. 12 S of R. 2 in the South Eastern District Dist. of Minnedosa & Containing more or less (2560 acres)		103					

Parish of St. Bernard 1903 ~~1904~~.

OF TAXATION.

6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT		STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
Cash value to be based on true & actual market value of capital stock, assessed value of real estate, personal property, franchises, etc., of persons, bodies corporate incorporated under laws filed 1902.	Cash value of household goods, furniture, jewelry, etc., not exempt from 1902 tax.	All kinds of personal property.	Cash value of all bonds, bank stocks, shares of stock, and all other credits.	Cash value of all securities, bonds, stocks, joint stock companies & mortgages.	Cash value of franchises, telephone, telegraph, express, sleeping car companies & all corporations not subject to license.	Cash value of all property not enumerated in this act.	Cash value of all other property not subject to taxation.	Actual cash value of Land or lots and improvements, machinery and implements thereon, not especially for purposes of taxation as required by latter part of Sec. 11, Act 170 of 1898.	WHITE	COLORED						
									644		234	644		644		1666
									183		109	183		183		675

I Certify the above and foregoing to be a true & correct extract from the Assessment Rolls of the Parish of St Bernard & State of Louisiana for the year 1903 as taken from the Rolls on file & of record in my Office.

W. E. Gonzales
Assessor
Parish of St Bernard.

Parish of St Bernard
April 2nd 1904

Residents.

Assessment Roll for the

NAMES OF TAXABLE PERSONS	POST OFFICE ADDRESS	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2	3	4	5
Brown John B.				7	632.70	S. fract. portion of Sec 17. Containing 498.70 Acres. more or less. N.E. 1/4 of S.E. 1/4 & S. 1/2. of N.W. 1/4. N.W. 1/4. & S.W. 1/4. the fract. E. 1/2 of Sec 19. Containing 519.10 Acres. more or less. All of Sec 21 except fract. S.E. Cor. Containing 582.30 Acres. more or less. Fractional S.W. Cor of Sec 21. Containing 92 Acres. more or less. All of Sec 30. except the Strip P.R. Lacoste. Containing 487.70 more or less. N.W. fract. Cor of Sec. 31. Containing 157.80 more or less. all the above lands being in T.S. 12. S.R. 13. in S.E. Land Dist of La. East of River. Containing all together (2 632.70 Acres)		316				
Isaacs Navigation Co. Ltd				6	632.70	All Certain lands at Isle au Pitre Viz. 3. Islands in Sect 20. 21. 28. & 29. T.10. S.R. 20. East. in S.E. East of River Land Dist. Containing 57.10 Acres. Also Certain Lands Situated in the S.E. Land Dist of La. embracing the whole of the Island Known as Isle au Pitre and other lands Viz. 1st The fract Sect Nos. 23. 24. 25. & 26 in T.S. No. 10. S. of R. 20. East. Containing 468.70 acres. 2nd The fract Sect 33 & 34. in T.S. No. 10. S. of R. 20. East Containing 69.30 Acres 3rd The fract Sect Nos. 27. 28 & 32. in T.S. 10. S. of R. 20. East Containing 310.70 Acres East fract Sec 1/2 of N.W. fract 1/4. Sec No. 5. in T.S. 11. S. of R. 20 East in the S. Eastern East of River Land District, Parish of St Bernard. Containing 33 acres.		200				

Parish of St Bernard 1903 ~~1904~~. Continued

OF TAXATION.

6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT WHITE	TOTAL ASSESSMENT COLORED	STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
									316		189	316		316		721
									200		120	200		200		520

I certify the above and foregoing to be a true and correct transcript from the Assessment Rolls of the Parish of St Bernard for the year 1903 of Colored lands, as taken from the original Rolls on file of record in my office

A Gonzales
Assessor
Parish of St Bernard

Parish of St Bernard
April 1st 1904.

Assessment Roll for the

Rancheros

Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	Value Paid	OBJECTS 1	2	3	4	5	6
Jay Lazare and Jos. M. Duncan					640	All of Sec. 24 & 25 also beginning N. W. Cor. Sec. 19 T. 12. S. R. 11 East in the Eastern Dist. of La. 640 Acres more or less		42					
Ruppel George					620	The East ½ of Sec. 23 Containing about 200 acres. The West ½ of Sec. 24 Containing about 200 acres. in T. 5. 11 S. R. 20 E. The N. W. ¼ Sec. 3 Containing 158 acres more or less in T. 12. S. R. 20 E. East. All of the above lands are in the Eastern Land District East of River and Containing 620 Acres more or less.		77					
Saenger Theatres Gilbert L. Heuck Chas. F. Forsythe and John M. Sloan					4320	Fract. S ½ of Sec. 15. East ½ fract. S. W. ¼ & fract. East ½ of N. W. ¼ of Sec. 20. All of Sec. 22 & ½ of N. W. ¼ of Sec. 30. W. ½ of Sec. 31. Containing (320 Acres) & the E. ½ of N. W. ¼ & S. W. ¼ of Sec. 25. W. ½ of N. E. ¼ & W. ½ of Sec. 26. W. ½ of N. E. ¼ & N. W. ¼ of Sec. 35. Containing (1280 acres) All Situated in T. 5. No. 11 S. of R. 19. East. in the South Eastern Dist. East of Miss. River & aggregating 4320 acres		540					

Parish of St. Bernard 1902 1904. Continued

1132

OF TAXATION.

7	8	9	10	11	12	13	14	TOTAL ASSESSMENT WHITE	TOTAL ASSESSMENT COLORED	STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
								60		87	63		63		1.63
								77		616	77		77		2.00
								540		324	540		540		14.04

I certify the above and foregoing to be a true and correct abstract from the assessment Rolls of the Parish of St Bernard, State of Louisiana for the year 1902 as taken from the Parish Assessment Rolls on file & of record in my office

C. H. Kenaday
Recorder

Parish of St Bernard.
April 27th 1902.

Parish of St Bernard

Sierra Plaintiff

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Sex	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	Value of Real Property	OBJECTS 1	2	3	4
	Dunbar Geo W				M	1102	S½ of NE¼, SE¼ of NW¼ & E½ of SW¼ of Sec 11 T20 R22 containing 162½ acres. Sec 12 T20 R22 containing 640 acres. All of Sec 13 T20 R22 containing 640 acres. N½ of NW¼ & NE¼ of Sec 24 T20 R22 containing 480 acres. All of Sec 25 T20 R22 containing 640 acres. All of Sec 26 T20 R22 containing 640 acres. W½ of NW¼ & SW¼ of Sec 27 T20 R22 containing 480 acres. W½ of NE¼ of Sec 34 T20 R22 containing 80 acres. E½ of SW¼ & W½ of SE¼ of Sec 36 T20 R22 containing 160 acres. Lots 1, 2, 3, 4 & E½ of W½ & W½ of NW¼ of Sec 19 T20 R23 containing 320 acres. All in Tp 11 S R 22 E Mdm. Also all & entire the Island designated as Paradise Island containing all of fractional Sec 18 T20 R23 containing 1102 acres. All of Govt Lot 1 Sec 14 T20 R22 containing 111 acres. All Govt Lot 2 Sec 14 T20 R22 containing 98½ acres. All Govt Lot 3 Sec 14 T20 R22 containing 132½ acres. All of Govt Lot 4 Sec 14 T20 R22 containing 111½ acres. And the Govt Lot 1 of Sec 24 T20 R22 containing 107½ acres. All in T 20 S R 19 East in the Mt Diablo Land District, State of California and containing in the aggregate 6182½ acres		641			
	Honor John S				M	1120	Sec 20 Containing 640 acres more or less " 26 " 60 " " " " 34 " 80 " " " " 35 " 300 " " " " 36 " 40 " " " 1120 All the above land being in T 20 S R 18 E in the South Eastern District East of River and containing in all 1120 acres		80			

Parish of St Bernard. 1903. 1904.

OF TAXATION.

8	7	8	9	10	11	12	13	14	Voters registered: White	Voters registered: Colored	State Tax	Parish Tax	Poll Tax	District Levee Tax	Acreage Tax	Total Tax
									Unof		3 Mill	Unof		Unof		1666
									183		149	183		183		675

I certify the above and foregoing to be a true & correct extract from the Assessment Rolls of the Parish of St Bernard, State of Louisiana, for the Year 1903 as taken from the Original Rolls on file and of record in my Office.

C. [illegible]
Assessor
Parish of St Bernard.

Parish of St Bernard.
Oath filed 2nd inst.

Assessment Roll for the

Residents

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2 Cash value in lots, square or parcels of ground, in incorporated or main or unincorporated Cities, Towns or Villages, with residences, or other improvements thereon	3 Cash value of Horses, Mules, Geldings, Cattle, Sheep, Goats, Hogs, and all other Live Animals.	4 Cash value of all Wagons, Carts, Buggies, Carriages and all other Vehicles.	5 Cash value of Merchandise, Stock in Trade,
	Konon John P.				7	245	South Frac. portion of Sec. 17 Containing 159.70/100 Acres more or less N. E. of S. E. 1/4 & S. 1/2 of N. W 1/4, N. W. 1/4 & S. W. 1/4 & the Frac. East 1/2 of Sec. 19 Containing 319.1/2 Acres more or less. All of Sec. 20 except Frac. S. E. Corner Containing 302.50/100 Acres more or less. Frac. N. W. Cor. of Sec. 21 Containing 96. Acres more or less. Frac. N. W. Cor. of Sec. 29 Containing 183.50/100 more or less. All of Sec. 30 except the Strip of R. R. Land etc. Containing 487.40/100 Acres more or less. N. W. Frac. Cor. of Sec. 13 Containing 181.60/100 Acres more or less. all the above lands being in T. S. 12 S. R. 13 E. in the S. E. Land Distr. East of River Containing & More than 245 32.50/100 Acres		316				
	Louisiana Navigation Co of Lands				6	6332	A Certain lands at Isle au Pitre Viz: Islands in Sec. 20. 21. 28. & 29. T. S. 10. S. R. 20 East. in the S. Eastern East of River Land Distr. Containing 57.50/100 Acres Also Certain Lands Situated in the S. E. Land Distr. of La. embracing the Whole of the Island known as Isle au Pitre, and other Islands Viz: 1st The Frac. Secs Nos. 23. 24. 25. & 26. in T. S. 10. S. R. 20. East. Containing 468.70/100 Acres. 2nd The Frac. Secs 33. & 34. in T. S. 10. S. R. 20 East. Containing 569.70/100 acres. 3rd The Frac. Secs Nos 27. 28. & 32. in T. S. 10. S. R. 20. East. Containing 380.70/100 Acres. East Frac. 1/2 of N. W. Frac. Sec. No. 4. in T. S. 11. S. R. 20. East. in the S. E. East of River Land District Parish of St Bernard & Containing 33. acres.		200				

Parish of St Bernard 1903 1904. Continued

1134

OF TAXATION.

6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT		STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
Cash value to be based on actual market value of capital stock, shares, etc., of all persons, associations of persons, business firms, corporations and pools over those assessed.	Cash value of Household Goods, Silverplate, Jewelry, etc., not exempt from taxation.	All Money owned or in possession.	Cash value of all bonds liable to taxation, Notes, Judgments and other credits.	Cash value of all Steamboats, Steamships, Barges and other watercraft.	Cash value of Annuities, Salaries, Incomes, etc., of all persons, associations of persons or business firms and corporations not subject to license.	Cash value of all property and things enjoyed or the privilege of industry.	Cash value of all other property subject to taxation	Actual cash value of Land or lots and improvements, machinery and implements thereon, not especially enumerated above, as fixed by, required by latter part of Sec. 17, Act 136 of 1898	WHITE	COLORED						
									316		189	316		316		821
									200		120	200		200		520

I certify the above and foregoing to be a true & Correct extract from the assessment Rolls of the Parish of St Bernard State of Louisiana for the year 1903 as taken from the Original Rolls on file & of record in my Office.

A Chongalez
Assessor
Parish of St Bernard

Parish of St Bernard
April 2nd 1904

Non Residents.

Assessment Roll for the

No.	Names of Taxable Persons	Post Office Address	White	Colored	Ward	No. of Acres	Description of Lands, Lots, Live Animals, Machinery, Vehicles, Credits, Franchises, Building Material and other Property subject to Taxation.	When Paid	OBJECTS 1 Cash value of Lands	2	3	4	5	6
									1 Cash value of Lands	2 Cash value in lots, occupation of parcels of ground, in incorporated or unincorporated Cities, Towns or Villages, with erections on, or other improvements thereon	3 Cash value of Horses, Mares, Mules, Geldings, Colts, Neat Cattle, Sheep, Goats, Hogs, and all other Live Animals.	4 Cash value of all Wagons, Carts, Dray, Carriages and all other Vehicles.	5 Cash value of all Merchandise or Stock in Trade.	6 Cash value of all [illegible]
	Lopez Lazarro and Wm. K. M. Ducate.		"			570	All of Sec 26 & 27. also Island N. W. of L. & K. in T.S. 12. S.R. 18. East in the Eastern Dist of La. 570. Square acres more or less.		68					
	Ruppel Georgs.		"			620	The East 1/2 of Sec 33. Containing about 200 acres. The W. 1/2 of Sec 34. Containing about 200 acres. T.S. 11. S.R 20. East. The N.W. 1/4 Sec No. 3. Containing more or less 70 acres. The N.E. 1/4 Sec. No 4. Containing 150 acres. in T.S. 12. S.R. 20. East. All of the described lands are in the South Eastern Land Dist. East of Miss River. and Containing 620 acres more or less		77					
	Saugn Charles Albert L. Hunt Chas F. Forsythe & John M. Grace		"		7	1320	Fractional S 1/2 of Sec. 15. East 1/2. Fract. S.W. 1/4. & Fract East 1/2 of N.W. 1/4. of Sec. 20. All of Sec 22. 27. & 28. N. 1/2. of Sec. 33. N 1/2. of Sec. 34. Containing (1340 acres) and the S 1/2. of N.W. 1/4. & S.W. 1/4. of Sec. 23. W. 1/2. of N.E. 1/4. & W. 1/2. of Sec. 26. W. 1/2. of N.E. 1/4. & N.W. 1/4. of Sec. 35. Containing (880. acres) all situated in T.S. 11. S.R. 19. East. in the South Eastern Dist. East of Miss River and aggregating 1320. Acres.		540					

Parish of St Bernard 1903. ~~1904~~. Continued

OF TAXATION.

5	6	7	8	9	10	11	12	13	14	TOTAL ASSESSMENT		STATE TAX	PARISH TAX	POLL TAX	DISTRICT LEVEE TAX	ACREAGE TAX	TOTAL TAX
										WHITE	COLORED						
										63		57	63		63		183
										77		46	77		77		200
										540		324	540		540		1404

I certify the above and foregoing to be a true and Correct extract from the Assessment Rolls of the Parish of St Bernard State of Louisiana, for the year 1903 as taken from the Original Rolls on file and of record in my Office.

A Ortego Parish
Assessor

Parish of St Bernard
April 2nd 1904.

Parish of St Bernard

1279 DOCUMENT No. 66.

UNITED STATES OF AMERICA,
State of Louisiana,
Parish of Orleans, City of New Orleans.

Be it known, that on this sixteenth day of the month of January, in the year of our Lord, one thousand nine hundred and of the Independence of the United States of America, the one hundred and twenty-fourth,

Before me, William F. Brewer, a notary public, duly commissioned and qualified, in and for the parish of Orleans, State of Louisiana aforesaid, therein residing, and in the presence of the witnesses hereinafter named and undersigned: Personally came and appeared: Charles Sanger, a resident of Bay St. Louis, Mississippi,, temporarily in this city of New Orleans, La., of full age of majority who declared, that he does, by these presents, grant, bargain, sell, convey, transfer, assign, set over, abandon and deliver, with all legal warranties and with full substitution and subrogation in and to all the rights and actions of warranty which he has or may have against all preceding owners and vendors unto Albert L. Hunt, of Richmond, Va. Charles F. Forsythe and John McGraw, both residents of this city, here present, accepting and purchasing for themselves, their heirs and assigns, and acknowledging due delivery and possession thereof, all and singular *one undivided one-fourth (1/4) to each* of the following described property or lands situated in the parish of St. Bernard, Louisiana, *to-wit:* Fractional south half of north east quarter and fractional south half of section fifteen, east half; fractional southwest quarter and fractional east half of north west quarter of section twenty-one; all of sections twenty-two, twenty-seven and twenty-eight. north half of section thirty-three, north half of section thirty-four, containing three thousand, four hundred and forty acres, and the south half of north west quarter and south west quarter of section twenty-three; west half of north east quarter and west half of section twenty-six; west half of north east quarter and north west quarter of section thirty-five, containing eight hundred and eighty acres. All situated in township No. eleven south of range No. nineteen east in the south eastern land district east of Mississippi river and aggregating four thousand, three hundred and twenty acres according to the plats of U. S. surveyor general on file in the office of the Board of Commissioners for the Lake Borgne Basin Levee District.

Being the same property which was acquired by the present vendor by purchase from the Board of Commissioners for the Lake Borgne Basin Levee District, by act under private signature, of date September 16, 1898, and on same date, before Chas. B. Upton notary public in New Orleans, the signature- of the subscribing parties were sworn to by Jos. R. Bres, one of the witnesses in said act; registered

in the parish of St. Bernard, La., on December 8, 1898, in Conveyance Book, No. 19, folios 349 *et seq.*

To have and to hold the above described property unto the said purchasers, their heirs and assigns forever.

This sale is made and accepted for and in consideration of the price and sum of *four hundred and five dollars* (*the sum of one hundred and thirty-five dollars being paid by each of* the purchasers herein) cash, which the said purchasers have well and truly paid, in ready and current money, to the said Chas. Sanger who hereby acknowledges the receipt thereof and grants full acquittance and discharge therefor.

The said *Chas. Sanger* here declared, that he has been 1280 married but once and his said wife is alive and residing with him in Bay St. Louis, Miss.

All State and city taxes up to and including the taxes due and exigible are paid as per declarations of the parties hereto.

The mortgage, conveyance, and tax certificates are waived by the parties hereto, who exonerate me, notary, from all responsibility for their non-production.

Thus done and passed, in my office, in the city of New Orleans on the day, month and year herein first above written, in the presence of Messieurs *James H. Nobles* and Oliver T. Nobles, competent witnesses, who hereunto signed their names with the said appearers, and me, notary, after reading of the whole.

(*Original signed*) CHS. SANGER.
JOHN McGRAW.

JAS. H. NOBLES.
O. T. NOBLES.

A. L. HUNT,
By W. S. PARKERSON, Att'y.
CHAS. F. FORSYTHE,
By W. S. PARKERSON, Att'y.

{ Seal William F. Brewer, Notary Public, Parish of Orleans, State of Louisiana. }

W. F. BREWER,
Notary Public.

A true copy of the original on file and of record in my office.
W. F. BREWER, Not. Pub.

[U. S. inter. revenue stamp.]

Duly registered at the parish of St. Bernard on the 23d day of January A. D. 1900 in Conveyance Book No. 19 folio 415 *et seq.*

{ The Seal of the Clerk of the Parish of St. Bernard, State of Louisiana. }

JAS. D. ST. ALEXANDRE,
Clerk, *ex Officio* Recorder.

(Endorsed:) Copy. January 16, 1900 Sale Chas. Sanger to Albert L. Huntt Chas. F. Forsythe and Jno. McGraw. W. F. Brewer, notary public 137 Carondelet St. New Orleans La. Document No. 66 offered by State of Louisiana April 28 1904. Frank H. Mortimer commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1281 DOCUMENT No. 67.

Extract from Appleton's Cyclopedia of Biography, 1856.

Page 229.

Darby, William, author of various geographical works from 1816 to 1821—now superseded by others adapted to the advancement of the country, and also editor in 1823 of Brook's Gazetteer. He was an able engineer and was employed in surveying the boundary between the United States and Canada. He also served in the army under General Jackson in Louisiana.

(Endorsed:) Extract from Appleton's Cyclopedia of Biography 1856. Document No. 67 offered by State of Louisiana, May 30, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1282 DOCUMENT No. 68.

Extracts from a Geographical Description of the State of Louisiana, the Southern Part of the State of Mississippi, and Territory of Alabama, &c.,

Together with

A Map

From Actual Survey and Observations, Projected on a Scale of Ten Miles to an Inch, of the State of Louisiana and Adjacent Countries.

Second Edition, Enlarged and Improved.

By William Darby.

New York, 1817.

Preface to First Edition.

* * * * * * *

Page IX.

A period of near eleven years has now elapsed since this work was first undertaken. Most of that time has been employed in the collection of materials, &c.

Page 52.

To the left of the Mississippi river, and right of Lakes Maurepas, Pontchartrain and Borgne, the country, except upon the margin of the streams, where timber is alone found, presents one vast grassy marsh, interspersed with lakes.

1283 Page 71.

(Under the head of "Parish of Plaquemines," which included the present parish of St. Bernard.)

The settlements are confined to the banks of the Mississippi, above Fort St. Philip, and those of Terre au Bœuf, above its confluence with Lake Lery. Some lands fit for culture exist on Bayou Bastien; but not of great extent, and remain mostly unoccupied. The border of the Mississippi and Terre au Bœuf are similar in soil and timber. When receding but a short distance from either, the surface of the earth sinks to a level with high tide; and is devoid of wood, is covered with grass, and is an irreclaimable morass.

Page 72.

Fort Darby, at the confluence of Terre au Bœuf, and the discharge of Lake Lery, was built during the campaign of 1815, under the direction of the author of this work, by order of General Jackson, to prevent the advance of the enemy through the Terre au Bœuf, or Riviere aux Chenes.

Page 308.

The islands of Malheureux, Marianne, and Cat-island, are included in the bounds assigned to both the States of Louisiana and Mississippi. There must have been some oversight in framing the respective acts, which marked the possessions of each State.

The islands are in themselves of no great consequence, they are mere banks of sand, decorated with sea myrtle and a few pine trees. There are two good harbours contiguous to Cat-island, but its position will render them in a great measure useless to navigation, except as a temporary shelter to vessels approaching the coast.

On the map accompanying the book is the following entry on the peninsula which is part of the present parish of St. Bernard: "This peninsula has never been surveyed N. E. of Bayou Terre au Bœuf; the coast and interior remain but imperfectly known. The surface is flat, and but little elevated above the level of the sea.

Page 357.

Explanation of the Map.

The principles upon which the large map of Louisiana and adjacent regions has been framed, demand a more explicit development than will be found in the body of the work.

The points upon the 31° N. latitude, were laid down from Ellicott's survey. The same *like* was subsequently to Ellicott's survey, extended to the Sabine river by the authority of the United States Government. From the line of 31° N. lat. was made the general survey of the State of Louisiana, the State of Mississippi, and
1284 the south part of Alabama territory, &*ct.* * * *

I was myself one of the surveyors employed in the work from 1806 to 1814, &*ct.* * * *

I was obliged, however, to make very expensive admeasurements beyond the work performed in virtue of the laws of the General Government. The State of Louisiana south of Red river, and west of the meridian of Nachitoches, has never been surveyed except by myself. The waters of the Sabine, the mouth and western branches of the Calcasiu river, were surveyed by me in 1812 and 1813; and at my sole expense. The same process I was obliged to perform with many other parts of the country; particularly West Florida, Mobile bay, *the islands between Mobile bay and the mouth of the Mississippi*, and the numerous outlets of the latter stream. The parish of Orleans, and the coast of the gulf of Mexico from the mouth of Lafourche to Baritaria inclusive, was laid down from a survey made by Mr. B. Lafon, in virtue of an order of the supreme court of the then Territory of Orleans, &*ct.* * * *

(Signed) WILLIAM DARBY.

New York, August 25th 1817.

(Endorsed:) Extracts from Wm. Darby's Geographical Description of the State of Louisiana, &*ct.* and accompanying map. Document No. 68 offered by State of Louisiana May 30 1904. Frank H. Mortimer commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

1285 DOCUMENT No. 69.

Extracts from Emigrant's Guide, by William Darby, 1818.

Page 19.

The inside passage from New Orleans to Mobile and Blakely, and of consequence to all the country upon the waters of Mobile, Alabama and Tombigby rivers, is perfectly safe and commodious for small vessels. The depth of water in the passes of Christian and Heron is not sufficient in ordinary times for vessels of more than six feet draught. The force of the sea is broken by the long peninsula that bounds Lake Borgne on the south-east, and by a chain of islands consisting of Malheureux islands, Marianne islands, Cat-island, Ship island, Isle aux Petit Bois and Dauphin island. The bottom of this strait is soft sand.

A singular circumstance communicated to the author by an intelligent commander of a vessel respecting the nature of the component parts of the banks upon the islands and main shores, may be of some use to persons navigating in this place. The person who made the communication had navigated frequently between New Orleans and Mobile; and observed that in the darkest night he could always determine on which side of the strait the vessel was; as along the islands there were no shells mixed with the sand, whilst broken shells were invariably brought up by the lead when on the main shore. This information is introduced here with the more confidence, because perfectly corresponding with the observations of the author.

The southern shore of Lake Pontchartrain is low land, scarcely rising above common tides, with very little timber. There are two passages from Lake Pontchartrain into Lake Borgne, the pass of the Rigolets and that of Chefmenteur. The latter is of little consequence, not having more than four feet of water at its respective bars. The Rigolets are properly the mouths of Pearl river, and afford nine feet water at each extremity. This pass either in a commercial, naval or military view, is of great consequence; it is in fact, after the Mississippi the most important inlet of Louisiana, and ought to be strongly fortified.

Lake Borgne is a prolongation of the strait reaching from the Rigolets to Mobile. It is thirty five miles in length from Cat island to the mouth of Bayou Bienvenu, with a medial width of twelve miles. Lake Borgne is checkered with two groups of small islands, Malheureux and Marianne islands. It is extremely shoal; excepting a narrow channel running along its north-western border, there is not more than two feet of water to be found in the whole expanse of the lake. Lake Borgne is terminated on N. E. by the beautiful Bay St. Louis; on the east by Cat island, and S. E. by a long flat; peninsula already noticed.

There are three passes from the east extremity of Lake Borgne the pass of Christian, the pass of Marianne, and that of the south-east. The former is generally used in navigating between Mobile and New Orleans. There is excellent anchorage on the south-west and north of Cat island. The island itself is a mere bank of sand, but might be rendered of importance by its position. It was to the south of this island that the British ships of the line lay during the campaign of 1814–15 in Louisiana; their smaller vessels took shelter on the north side of the island.

1286 Page 16.

From the mouth of the Mississippi river a strong current sets westwardly along the shores of the Mexican gulf, carrying with it timber brought by that stream. That this current is uniform is proved by the fact that none of the debris thrown into the Gulf by the Mississippi is found to the north-east of the mouth of that river,

whilst to the west the whole coast is strewed with cottonwood, cypress and other trees, with rails, planks, pieces of flat-bottom boats, and in fact wood in all its forms into which it is generally wrought and left exposed to be swept away by the flood.

Page 16.

It would appear from an inspection of a map of the gulf of Mexico and Carribean sea, that the current flows from the latter into the former between Cape St. Antoine, and assuming a northern direction, reaches the shore of Florida between Apalachicola and Mobile rivers, and there divides; one part traversing the western shore of East Florida, encounters and is carried away by the Gulf stream between Florida point and the island of Cuba; but much the largest mass turns to the west, passes along West Florida, Alabama Territory, the State of Mississippi, Louisiana, and the province of Texas, until reaching the bay of St. Joseph, it winds with the coast to the south along the shore of the vice-royalty of Mexico, and finally sweeping the bay of Campeachy and the western and northern shores of Yucatan, meets the current from which it originated. This current is the parent of the Gulf stream, and divides the gulf of Mexico into two immense, but unequal, whirlpools.

(Endorsed:) Extracts from Emigrant's Guide by William Darby. 1818. Document No. 69 Offered by State of Louisiana May 30 1904 Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1287 DOCUMENT No. 70.

Extracts from Emigrant's Guide, by William Darby.

Page 16.

The settlements continue in descending the Mississippi, from New Orleans compactly on both banks of the river to Point lè Hache. Terre aux Bœuffs is a settlement, which is connected with those on the Mississippi, and winds along both banks of a small ancient outlet. The lands upon the Terre aux Bœuffs are excellent. Sugar, cotton, and cattle are the staples of the settlement, and some fine sugar houses are established. The adjacent country towards Lake Borgne and Chandeleur bay is an open grassy morass.

Page 41.

As to families, the provision of musqueto curtains is absolutely indispensible. * * *

The author was one who learned, from dear bought experience, this useful addition to his traveling equipments. During a resi-

dence of nearly sixteen years. in the region near and in the delta of the Mississippi, the only indisposition of any great consequence he ever experienced, was in first descending the Mississippi to Natchez; and his sickness was then occasioned by the pain and venom of the sting of the musquito.

(Endorsed:) Extracts from Emigrant's Guide by William Darby. Document No. 70 offered by State of Louisiana, May 30, 1904. Frank H. Mortimer commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

1288 DOCUMENT No. 71.

Treaty between the United States and Spain, February 22d, 1819.

Article III.

The boundary line between the two countries west of the Mississippi shall begin on the gulf of Mexico at the mouth of the River Sabine in the sea, continuing north, along the western bank of that river, to the 32d degree of latitude; thence, by a line due north to the degree of latitude where it strikes the Rio Roxo of Nachitoches or Red river; then following the course of the Rio Roxo westward to the degree of longitude 100 west of London and 23 from Washington; then crossing the said Red river and running thence by a line due north to the River Arkansas, then following the course of the southern bank of the Arkansas to its source in latitude 42; and thence by that parallel to the South sea. The whole being as laid down in Melish's map of the United States published at Philadelphia improved to the first of January 1818, &c.

* * * * * * *

(Endorsed:) Treaty between the United States and Spain February 22d 1819. Document No. 71. Offered by State of Louisiana May 30 1904. Frank H. Mortimer commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

1289 DOCUMENT No. 72.

Extract from Report upon the Physics and Hydraulics of the Mississippi River, &c., &c., by Capt. A. A. Humphreys and Lieut. W. L. Abbot.

Page 482.

As already explained in chapter 2, the tides of the Gulf at the mouths of the Mississippi are of the diurnal, or single day type, being when the moon's declination is least, scarcely perceptible, and when greatest, about 1.5 feet.

The investigations of the Coast Survey have also shown that the tidal wave approaches the mouths of the Mississippi from a south-easterly direction. With this tidal wave there is near the coast a tidal current in the same general direction. The tidal wave lifts up the river current in the Gulf, and the tidal current passes under it, though checking it to some extent in so doing. The direction of this current, is modified by its contact with the river current, and to a greater degree, by its contact with the outer slope of the bar deposit. In the case of the South-west pass, a flood tide brings a current from the south-east, which is changed to a south-westerly direction, more westerly than that of the river current, by the bar deposit along the eastern side of the mouth of the pass. The ebb tide is accompanied by a current from the opposite direction, which is similarly diverted by the deposit on the western side of the mouth of the pass, the direction being more southerly than the current of the river. Winds may change the direction and force of these currents, which in mid-river current, at a depth of 40 feet, are shown by observations to vary from 0.3 to 2.5 ft. per second, the mean being about 0.5. As a velocity of 0.5 of a foot per second is sufficient to transport the material of which the bar is formed, the action of Gulf currents in carrying into deep water the material pushed by the river into the Gulf, is apparent.

(Endorsed:) Extract from Report upon the Physics and Hydraulics of the Mississippi River, by Capt. A. A. Humphreys & Lt. W. L. Abbot. Document No. 72. Offered by State of Louisiana, May 30 1904 Frank H. Mortimer, commissioner Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

1290 DOCUMENT No. 73, Offered by the State of Louisiana. Wm. D. Bullard, Commissioner.

Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, Clerk.

26TH CONGRESS, 1st *Session.* (SENATE.) (163.)

Document Relating to a Survey of the Coast of the State of Mississippi.

February 10, 1840.

Presented by Mr. Walker, Referred to the Committee on Commerce, and Ordered to be Printed.

Report of John Wheeler, Esq., of His Surveys of the Mississippi Seacoast.

December 13, 1839.

The undersigned, having been commissioned by your excellency engineer to survey the coast and harbors of Mississippi, by author-

ity of the act of the legislature, entitled "An act to provide for a survey of the Mississippi coast," begs leave to report that he has performed that duty, and herewith presents a chart, representing the result of his survey.

The language of the act, and the limited means provided for this work, do not justify the opinion that a very minute survey was designed, and only such a one as would enable the legislature to determine whether the State has within her limits any harbor or harbors suitable for and adapted to commercial purposes. With this view of the subject, the undersigned, at an early day after his appointment, proceeded to the task assigned him, and has made a survey sufficiently accurate to solve the question involved in the act of the legislature.

The State possesses a seashore of seventy miles on a direct line from east to west, and more than one hundred including the meanderings of the coast. In the main, this shore presents a high, healthy, and well timbered bluff, free in a great measure from the low and marshy swamps peculiar to southern latitudes.

1291 It is protected in its whole extent by a chain of islands extending from Dauphin island on the east to Cat island on the west. These, by their position to the coast, furnish many and various harbors, all more or less suitable for the anchorage of vessels, according to the depth of water found in them, which depth is clearly designated on the chart.

It will be perceived, on an examination of the chart, that the State has within her limits three bays of some magnitude—the bay of Pascagoula, the bay of Biloxi, and the bay of St. Louis: to these may be added that portion of Lake Borgne near the mouth of Pearl river. These, of themselves, without the aid of the islands off their junction with the Gulf, form safe and convenient harbors for the reception and anchorage of steamboats and other vessels of a minor class; but the depth of water through the channels communicating with them is not sufficient for the safe ingress and egress of vessels drawing more than ten feet of water; and hence they cannot be used to the extent necessary for the important purposes of commerce but they will always furnish important auxiliaries to the main harbor, and yield, through themselves and their tributaries, an extensive trade in timber—a trade which promises to be of vast importance to the commercial interest of the State.

The most important and available harbor on our coast is that formed more particularly by Ship and Cat islands. It will be perceived that these islands lie parallel with the shore, and at the mean distance of ten miles from the mainland, and are so situated with regard to the harbor, that they form a complete and ample protection for vessels at anchor. Ships may ride in perfect safety immediately under the lee of either of these islands, and within fifteen fathoms of the shore, being in this position amply protected from all seaward storms. The bottom of this harbor is peculiarly formed for safe anchorage, being composed mainly of soft mud, mixed with

sand and clay, which is the most permanent and safe for the mooring of ships; nor is its excellency in this respect impaired by sand-bars or rocks, always the most dangerous obstruction to navigation.

1292 The greatest danger to which a ship at anchor is subject is that arising from the height and consequent swelling of the sea, which, in an unsafe harbor, is often sufficient to drive her from her moorings, and cause her loss, either from the effect of the breakers, or the being cast upon a lee shore; but these difficulties are not to be apprehended in the Mississippi City harbor, because it is so completely land-locked, and protected on all sides, that no heavy sea will ever accumulate, and, consequently, no danger is to be apprehended from this cause.

The harbor is conveniently situated to the main land, which forms one of its boundaries; and the ordinary class of merchant ships can approach with safety to within one mile of the shore, for the purpose of receiving or discharging their cargoes. This distance, when we consider the favorable character of the bottom for the construction of wharves, is inconsiderable, and may, at a comparatively light expense in the construction of those wharves, be overcome, so as to save the expense of lighterage—a very considerable tax imposed upon the neighboring ports of New Orleans and Mobile.

The main entrance into the harbor is found at the west end of Ship island, and at medium tide has not less than twenty-three feet of water throughout the channel of one and a half mile in width, through which ships of war and other vessels can sail into and out of the harbor in perfect safety.

This channel can be well protected by the erection of naval forts—one on the western extremity of Ship island; and one on the bar or middle ground, west of the channel, as designated on the chart.

Besides this, there are two other channels, both between Dog island and Horn island, through which vessels can enter; but these, by reason of their narrowness and uneven bottom, are inferior to the one first mentioned, and would not be used except in good weather, and by experienced pilots. Also, by a reference to the chart it will be perceived that there are two other channels—one between Horn island and Petit Bois island, of the depth of 15 feet, leading into Horn Island sound, where there is good anchorage; the other

1293 between Cat island and the Louisiana marsh, leading *though* the south pass, towards Lake Borgne; but owing to their situation, they probably will not be much used.

With regard to the practicability of erecting a city or commercial depot on our coast, there cannot be a doubt; the whole coast presents one bold front, elevated some sixteen feet above the tides, and commanding a handsome and picturesque view of the islands, bays, and distant deep, and richly timbered with forests of valuable timber. Hence, at almost any point a city could be founded; but the precise location is a subject of some importance.

The city should be located near the most important harbor, for the sake of convenience, as well as its defence. Any point within the ranges ten and eleven are equally distant from the main anchorage, and near the line dividing these ranges the Mississippi City is situated.

The improvements made by the proprietors of this infant city have already given it some claims to a commercial character; in reference to the harbor, and the bay of Biloxi in the rear, it is certainly susceptible of being made a most important commercial point. An inconsiderable expense, compared with the importance of the object, would be sufficient to connect, by a canal of two miles in extent, the waters of the harbor with those of the bay in the rear of the city; and thus form a water communication through the heart of the city, and furnish at the same time an unquestionable retreat for steamboats and small vessels during the heaviest weather.

The Pearl and Pascagoula rivers, with their tributaries, extending as they do to the interior of the State, will afford, with a moderate improvement of their navigation, channels for the transportation of a considerable portion of the produce of the State.

The entrance of these rivers into the Gulf is about equidistant from the Mississippi City harbor, and the navigation thence for steamboats is much safer than to New Orleans.

Nor should we omit the restoration of Pass Manchac to its former navigable character, which was during the last war obstructed for purposes of national defence. Mississippi certainly has the
1294 clear right to demand its re-opening, and so make our own harbor accessible to steamboats descending the Mississippi river, and thus place the whole commerce of the State directly within our own reach.

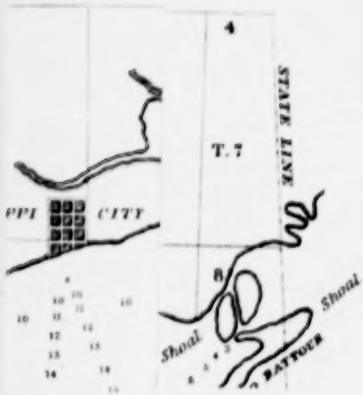
Thus it is the opinion of the undersigned that the State of Mississippi possesses within her own limits a harbor amply sufficient for her purposes, and which holds out the bright prospect of commercial independence, with the aid it deserves, and which the interest of the State demands.

All of which is most respectfully submitted.

JOHN WHEELER, Engineer.

To his excellency A. G. McNutt, governor of the State of Mississippi.

(Here follows map marked page 1295.)



FOLD OUT IS TOO LARGE TO BE FILMED

1296 DOCUMENT No. 74.

Louisiana Land Office.

Patent No. 726. Dec. 27th, 1853.

Mary C. Gordon, Patentee, of the Parish of Orleans.

Description of Land Patented.

Parts of sections.	Section.	Township.	Range.	Quantity.	District.
All south & west of Bayou St. Malo, except	33				
S. E. ¼ of S. E. ¼ and N. W. frac'l ¼...	33	13	16		
Total	.....	.....	.....	.....	S. E. dist.

Certificate No. 449.
Action had by the Secretary of the Treasury.

1297 STATE OF LOUISIANA, }
City of Baton Rouge. }

I, A. W. Crandell, register of State land office, do hereby certify that the within and foregoing is a true and correct copy of record of patent No. 726, as appearing in volume No. 1, page 251, of record at this office.

Given under my hand and seal of office this 8th day June A. D. 1904.

A. W. CRANDELL,
[SEAL.] Register of the State Land Office.

(Endorsed:) Document No. 74 offered by State of Louisiana, August 25, 1904 Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905 James H. McKenney, clerk.

1298 DOCUMENT No. 75.

THE STATE (Vignette) OF LOUISIANA.

Patent No. 7850.

To all to whom these presents shall come, Greeting:

Whereas, W. A. Gordon of the parish of St. Bernard in the State of Louisiana, purchased per certificate No. 772 N. S. dated, July 5th, 1854 all of fractional section thirty two and the south east quarter of the south east quarter and the south west quarter of the south west quarter thirty three and that portion south and west of Bayou St. Malo in section No. thirty-four in township No. thirteen south range No. sixteen east in the Southeastern East of R. land district, parish of St. Bernard containing three hundred and six 90/-00 acres according to the official plat of the survey of said lands in the State land office.

Now know ye, that the State of Louisiana, in the consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and by these presents does give grant and sell unto the said W. A. Gordon and to his heirs, the above described land, to have and to hold the same together with all the rights, titles and privileges, thereunto belonging, unto the said W. A. Gordon and to his heirs and assigns forever.

In testimony whereof, I, William Wright Heard, governor of the State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of Baton Rouge, on the twenty second day of May in the year of our Lord one thousand nine hundred and one and of the Independence of the United States the one hundred and 25.

By the governor.

W. W. HEARD.
JAS. M. SMITH,
Register State Land Office.

Record of patent vol. 33 page 114.

STATE OF LOUISIANA,
City of Baton Rouge.

I, A. W. Crandell, register of State land office, do hereby certify that the within and foregoing is a true and correct copy of record of patent No. 7850, as appearing in volume No. 33, page 114, of record at this office.

Given under my hand and seal of office, this 8th day June A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(Endorsed:) Document No. 75. Offered by State of Louisiana, August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court, U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1299 DOCUMENT No. 76.

Louisiana Land Office.

Patent No. 10331. July 31st, 1861.

Louis Palms, Patentee, of the Parish of Orleans.

Description of Land Patented.

Parts of sections.	Section.	Township.	Range	Quantity.	District.
Lots 5, 6, 10, 11, 12, 13, 16, 17, 18, 19, 20 S. E. ¼ of S. E. ¼ & S. E. ¼ of N. E. ¼..	22				
All of N. & E. of Bayou St. Malo.....	34				
S. W. ¼ of N. W. ¼ of.....	23				
All of frac'l.....	28	13 S.	16 E.		
Total	.....	.....	.....	856.24	S. Eastern.

Certificate No. 3485

1300 STATE OF LOUISIANA, }
Baton Rouge. }

I, A. W. Crandell, register of the State land office, do hereby certify the within and foregoing to be a true and correct copy of the record of patent No. 10,331; as recorded in Patent Record No. 11, page 269, on file in this office.

Given under my hand and seal of office, on this the 7th day of June A. D. 1904.

A. W. CRANDELL,
Register of the State Land Office.

[SEAL.]

(JUMEL, C.)

(Endorsed:) Document No. 76. Offered by State of Louisiana, August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1301 DOCUMENT No. 77.

STATE OF LOUISIANA.

Patent. (Vignette.) No. 144.

To all to whom these presents shall come, Greeting:

Whereas, A. W. Morse, assignee F. M. Stevens of the parish of Orleans in the State of Louisiana, purchased per certificate No. 3 N. S. L. G. dated 28th Nov. 1864, the following described swamp land subject to tidal overflow to wit:—The N. E. 4 of section 31 and the N. W. 4 of section No. 32, in township 13 S. of R. 17 E., in southeastern land district of Louisiana east of the Mississippi river, containing three hundred and twenty acres 2 320,00 / 100 according to the official plat of the survey of said lands in the State land office.

Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law, in such case made and provided has given, granted and sold, and by these presents does give, grant and sell, unto the said A. W. Morse of Orleans and to his heirs the above described land to have and to hold to the same together with all the rights, titles and privileges thereunto belonging, unto the said A. W. Morse and to his heirs and assigns forever.

In testimony whereof, I, J. Madison Wells, governor of the State of Louisiana, have caused these letters to be made patent and the seal of the State land office to be hereunto affixed.

Given under my hand, at the city of New Orleans, on the twenty second day of December in the year of our Lord, one thousand eight hundred and sixty six and of the Independence of the United States the ninety first.

By the governor
(Signed) J. MADISON WELLS.
AD. DUPRE, Register.

Record of patent, vol. 15, page 69.

True record of the original this day delivered to patentee.
AD. DUPRÉ, Register.

STATE OF LOUISIANA, }
City of Baton Rouge. }

I, A. W. Crandell, register of State land office, do hereby certify that the within and foregoing is a true and correct copy of record of patent No. 144, as appearing in volume No. 15, page 69, of records at this office.

Given under my hand and seal of office, this 8th day June A. D. 1904.

[SEAL.] A. W. CRANDELL,
Register of the State Land Office.

(Endorsed:) Document No. 77. Offered by State of Louisiana. August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1302 DOCUMENT No. 78.

STATE OF LOUISIANA.

Patent No. 143. (Vignette.)

To all to whom these presents shall come, Greeting:

Whereas, A. W. Morse of the parish of Orleans in the State of Louisiana, purchased per warrant No. 52, dated 8th December 1864 the following described swamp lands subject to tidal overflow to wit:—All of south half of section 32 in T.-13-S.-of-R.-No. 17 east in the south eastern land district of La.—East of the Mississippi river parish of St. Bernard, containing three hundred and twenty 00/— acres 320 according to the official plat of the survey of said lands in the State land office.

Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law, in such case made and provided, has given, granted and sold and by these presents does give, grant and sell unto the said A. W. Morse and to his heirs the above described land to have and to hold the same together with all the rights, titles and privileges thereunto belonging, unto the said A. W. Morse and to his heirs and assigns forever.

In testimony whereof, I, J. Madison Wells, governor of the State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of New Orleans, on the twenty second day of December in the year of our Lord, one thousand eight hundred and sixty six and of the Independence of the United States the ninety first.

By the governor:

(Signed) J. MADISON WELLS.
AD. DUPRÉ, Register.

Record of patent, vol. 15 page 68.

True record of the original, this day delivered to patentee.

AD. DUPRÉ, Register.

STATE OF LOUISIANA, }
City of Baton Rouge. }

I, A. W. Crandell, register of State land office, do hereby certify that the within and foregoing is a true and correct copy of record of patent No. 143, as appearing in volume No. 15, page 68, of record at this office.

Given under my hand and seal of office, this 8th day June, A. D. 1904.

[Seal of the Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(Endorsed:) Document No. 78. Offered by State of Louisiana Aug. 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

1303 DOCUMENT NO. 79.

STATE OF LOUISIANA.

Patent No. 117. (Vignette.)

To all to whom these presents shall come, Greeting:

Whereas, Henry McGuinn of the parish of Orleans, in the State of Louisiana, purchased per warrant No. 106 dated 9th January 1865 the following described swamp lands subject to tidal overflow to wit: The N. W. 4 sec. the S. W. 4 of N. E. 4 section and south half of section No. thirty three in township thirteen south of range seventeen east in the south eastern land district of La. in the parish of St. Bernard east of the Mississippi river containing five hundred and twenty acres 520, according to the official plat of the survey of said lands in the State land office. 520

Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law, in such case made and provided, has given, granted and sold and by these presents does give, grant and sell unto the said Henry McGuinn of Orleans and to his heirs the above described land to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said Henry McGuinn and to his heirs and assigns forever.

In testimony whereof, I, J. Madison Wells, governor of the State of Louisiana, have caused these letters to be made patent and the seal of the State land office to be hereunto affixed.

Given under my hand, at the city of New Orleans, on the twenty sixth day of September in the year of our Lord, one thousand eight hundred and sixty six and of the Independence of the United States the ninety first.

By the governor:

(Signed) J. MADISON WELLS.

AD. DUPRÉ, Register.

Record of patent, vol. 15 page 55.

True record of the original this day delivered to patentee.

AD. DUPRÉ, Register.

STATE OF LOUISIANA,
City of Baton Rouge.

I, A. W. Crandell, register of State land office, do hereby certify that the within and foregoing is a true and correct copy of record of patent No. 117, as appearing in volume No. 15, page 55, of record at this office.

Given under my hand and seal of office, this 8th day June, A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(Endorsed:) Document No. 79. Offered by State of Louisiana August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

1304 DOCUMENT NO. 80.

STATE OF LOUISIANA.

Patent 193. (Vignette.)

To all to whom these presents shall come, Greeting:

Whereas, Richard Pindell of the parish of Orleans in the State of Louisiana, purchased per warrant No. 139 dated 20th March, 1867, the following described swamp lands subject to tidal overflow to wit: The N. W. 4 of section fifteen in township 14 S. of range 16 E., in the southeastern land district of Louisiana St. Bernard parish containing one hundred and sixty acres according to the official plat of the survey of said lands in the State land office. 160.

Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and by these presents does give, grant and sell unto the said Richard Pindell of Orleans and to his heirs the above described land to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said Richard Pindell and to his heirs and assigns forever.

In testimony whereof I, J. Madison Wells governor of the State of Louisiana have caused these letters to be made patent and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of New Orleans on the 20th day of March in the year of our Lord one thousand eight hundred and sixty seven and of the Independence of the United States the ninety first.

By the governor:
(Signed) J. MADISON WELLS.
AD DUPRE, Register.

Record of patent, vol. 15 page 93.

True record of the original this day delivered to patentee
AD DUPRÉ, Register.

STATE OF LOUISIANA,
City of Baton Rouge.

I, A. W. Crandell, register of State land office, do hereby certify that the within and foregoing is a true and correct copy of record of patent No. 193, as appearing in volume No. 15, page 93, of record at this office.

Given under my hand and seal of office, this 8th day June A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(Endorsed:) Document No. 80 Offered by State of Louisiana August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

1305 DOCUMENT No. 81.

THE STATE OF LOUISIANA.

Patent (Vignette) No. 706.

To all to whom these presents shall come, Greeting:

Whereas, J. C. Gilmore of the parish of Orleans in the State of Louisiana, purchased per certificate No. 571, N. S. L., March 15th 1887, the fr'l W. 2 of fr'l W. 2 sec. 4 and fr'l N. E. 4 of *of* section No. 5 in township No. 11 S. range No. 20 E. in the S. E. E. of River land district, parish of St. Bernard, containing 276.00/100 acres according to the official plat of the survey of said lands in the State land office.

Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and by these presents does give, grant and sell unto the said J. C. Gilmore and to his heirs, the above described land to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said J. C. Gilmore and to his heirs and assigns forever.

In testimony whereof, I Samuel Douglas McEnery, governor of the State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of Baton Rouge on the 15th day of March in the year of our Lord, one thousand eight hundred and

eighty 7 and of the Independence of the United States the one hundred and 11th.

By the governor:

S. D. McENERY.
JAMES L. LOBDELL,
Register of State Land Office.

Record of patent vol. 23 page 225.

STATE OF LOUISIANA, }
Baton Rouge. }

I, A. W. Crandell, register of the State land office, do hereby certify the within and foregoing to be a true and correct copy of the record of patent No. 706, as recorded in patent record No. 23—page No. 225, on file in this office.

Given under my hand and seal of office on this the 7th day of June A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(Endorsed:) Document No. 81. Offered by State of Louisiana August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1306 DOCUMENT No. 82.

The State of Louisiana.

Patent (Vignette) No. 750.

To all to whom these presents shall come, Greeting:

Whereas, J. C. Gilmore of the parish of St. Bernard in the State of Louisiana, purchased per certificate No. 594 N. S. L. April 7th 1887,

E.$\frac{1}{2}$ sec. 32 S. E.$\frac{1}{4}$ sec. 29 W.$\frac{1}{2}$ of N. W.$\frac{1}{4}$ sec. 33 and W.$\frac{1}{2}$ of S. W.$\frac{1}{4}$ sec. 28, of section No. 28 in township No. 11 south range No. 20 east in the S. E. E. of R. land district, parish of St. Bernard, containing 640 00/100 acres according to the official plat of the survey of said lands in the State land office.

1307 Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and by these presents does give, grant and sell unto the said J. C. Gilmore and to his heirs the above described land, to have and to hold the same together with all the rights, titles and privileges thereunto be-

longing unto the said J. C. Gilmore and to his heirs and assigns forever.

In testimony whereof, I, Samuel Douglas McEnery, governor of the State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

1308 Given under my hand at the city of Baton Rouge on the 7th day of April in the year of our Lord one thousand eight hundred and eighty 7 and of the Independence of the United States the one hundred and 11th.

By the governor:

S. D. McENERY.
JAMES L. LOBDELL,
Register of State Land Office.

Record of patent, vol. 23, page 247.

STATE OF LOUISIANA, }
Baton Rouge. }

1309 I, A. W. Crandell, register of the State land office, do hereby certify the within and foregoing to be a true and correct copy of the record of patent No. 750; as recorded in Patent Record No. 23, page No. 247, on file in this office.

Given under my hand and seal of office on this the 7th day of June, A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(JUMEL, C.)

(Endorsed:) Document No. 82 Offered by State of Louisiana. August 25, 1904 Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905 James H. McKenney, clerk.

1310 DOCUMENT No. 83.

THE STATE OF LOUISIANA.

Patent (Vignette) No. 751.

To all to whom these presents shall come, Greeting:

Whereas J. C. Gilmore of the parish of St. Bernard in the State of Louisiana purchased per certificate No. 595 N. S. L. April 7th, 1887, N. 2 of N. E. 4 of *of* section No. 5 in township No. 12 south range No. 20 east in the S. E. E. of River land district, parish of St. Bernard containing 80 00/100 acres according to the official plat of the survey of said lands in the State land office.

Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, had given granted and sold and by these presents does give, grant and sell unto the said J. C. Gilmore and to his heirs, the above described land, to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said J. C. Gilmore and to his heirs and assigns forever.

In testimony whereof, I, Samuel Douglas McEnery, governor of the State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of Baton Rouge on the 7th day of April in the year of our Lord, one thousand eight hundred and eighty 7, and of the Independence of the United States the one hundred and 11th.

By the governor:

S. D. McENERY.
JAMES L. LOBDELL,
Register of State Land Office.

Record of patent, vol. 23 page 247.

STATE OF LOUISIANA, }
Baton Rouge. }

I, A. W. Crandell, register of the State land office, do hereby certify the within and foregoing to be a true and correct copy of the record of patent No. 751, as recorded in Patent Record No. 23, page No. 247, on file in this office.

Given under my hand and seal of office, on this the 7th day of June A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(JUMEL, C.)

(Endorsed:) Document No. 83. Offered by State of Louisiana August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

1311 DOCUMENT No. 84.

THE STATE OF LOUISIANA.

Patent (Vignette) No. 761.

To all to whom these presents shall come, Greeting:

Whereas W. V. Gilmore of the parish of Orleans in the State of Louisiana, purchased per certificate No. 601 N. S. L. April 11th 1887, all of *of* section No. 20 in township No. 11 S. range No. 20 E. in the

S. W. land district parish of St. Bernard containing 640, 00/100 acres according to the official plat of the survey of said lands in the State land office.

Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and by these presents does give, grant and sell unto the said W. V. Gilmore and to his heirs, the above described land, to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said W. V. Gilmore and to his heirs and assigns forever.

In testimony whereof, I, Samuel Douglas McEnery, governor of the State of Louisiana, have caused these letters to be made patent and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of Baton Rouge on the 11th day of April in the year of our Lord, one thousand eight hundred and eighty 7, and of the Independence of the United States the one hundred and 11th.

By the governor:

S. D. McENERY.
JAMES L. LOBDELL,
Register of State Land Office.

Record of patent, vol. 23 page 252.

STATE OF LOUISIANA, }
Baton Rouge. }

I, A. W. Crandell, register of the State land office, do hereby certify the within and foregoing to be a true and correct copy of the record of patent No. 761, as recorded in Patent Record No. 23—page 252, on file in this office.

Given under my hand and seal of office, on this the 7th day of June A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(JUMEL, C.)

(Endorsed:) Document No. 84. Offered by State of Louisiana August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1312 DOCUMENT No. 85.

THE STATE OF LOUISIANA.

Patent (Vignette) No. 870.

To all to whom these presents shall come, Greeting :

Whereas, W. V. Gilmore of the parish of Orleans in the State of Louisiana, purchased per certificate No. 659 N. S. L. June 22, 1887, W.^{2} of S. W.^{4} sec. 17 S. E.^{4} sec. 18; E.^{2} of sec. 19; W.^{2} of sec. 29; E.^{2} of sec. 30; E.^{2} of sec. 31; and W.^{2} of *of* section No. 32—in township No. 11 S. range No. 20 E. in the S. E. E. of R. land district, parish of St. Bernard containing 1840 00/100 acres according to the official plat of the survey of said lands in the State land office.

1313 Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and by these presents does give, grant and sell unto the said W. V. Gilmore and to his heirs, the above described land to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said W. V. Gilmore and to his heirs and assigns forever.

In testimony whereof, I, Samuel Douglas McEnery, governor of the State of Louisiana have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

1314 Given under my hand at the city of Baton Rouge, on the 22 day of June in the year of our Lord, one thousand eight hundred and eighty 7 and of the Independence of the United States the one hundred and 11th

By the governor

S. D. McENERY.
JAMES L. LOBDELL,
Register of State Land Office.

Record of patent, vol. 23, page 307.

STATE OF LOUISIANA, }
Baton Rouge. }

1315 I, A. W. Crandell, register of the State land office do hereby certify the within and foregoing to be a true and correct copy of the record of patent No 870; as recorded in Patent Record No. 23 page No. 307, on file in this office.

Given under my hand and seal of office, on this the 7th day of June A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(JUMEL, C.)

(Endorsed:) Document No. 85. Offered by State of Louisiana August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1316 DOCUMENT NO. 86.

THE STATE OF LOUISIANA.

Patent (Vignette) No. 961.

To all to whom the sepresents shall come, Greeting:

Whereas, Samuel L. Gilmore of the parish of Orleans in the State of Louisiana, purchased per certificate No. 719 N. S. L. sec. 11 act 75 of 1880 September 12th, 1887, S. 2 and N. W. 4 of sec. 5, E. 2 of E. 2 and S. W. 4 of S. E. 4 sec. 6, N. E. 4 and N. 2 of S. E. 4 sec. 7 and N. W. 4 of *of* section No. 8 in township No. 12 south range No. 20, east in the S. E. E. of Miss. River land district parish of St. Bernard, containing 1080 00/100 acres according to the official plat of the survey of said lands in the State land office.

Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and by these presents does give, grant and sell unto the said Samuel L. Gilmore and to his heirs the above described land, to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said Samuel L. Gilmore and to his heirs and assigns forever.

In testimony whereof I, Samuel Douglas McEnery, governor of the State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

Given under my hand, at the city of Baton Rouge, on the 12 day of Sept. in the year of our Lord, one thousand eight hundred and eighty 7 and of the Independence of the United States the one hundred and 12.

By the governor:

S. D. McENERY.
JAMES L. LOBDELL,
Register of State Land Office.

Record of patent, vol. 24, page 39.

STATE OF LOUISIANA,
City of Baton Rouge.

I, A. W. Crandell, register of State land office, do hereby certify that the within and foregoing *a* is a true and correct copy of record of patent No. 961, as appearing in volume No. 24, page 39, of record at this office.

Given under my hand and seal of office, this 8th day June A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(Endorsed:) Document No. 86. Offered by the State of Louisiana August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1317 DOCUMENT NO. 87.

THE STATE OF LOUISIANA.

Patent (Vignette) No. 1039.

To all to whom these presents shall come, Greeting:

Whereas, J. C. Gilmore of the parish of Orleans in the State of Louisiana, purchased per certificate No. 770 N. S. L. sec. 11 act 75 of 1880, Nov. 7, 1887 all of fr'l of section No. 13 in township No. 11 S. range No. 19 E. in the S. E. E. of R. land district, parish of St. Bernard containing 320 00/100 acres according to the official plat of the survey of said lands in the State land office.

1318 Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and by these presents does give, grant and sell unto the said J. C. Gilmore and to his heirs the above described land to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said J. C. Gilmore and to his heirs and assigns forever.

In testimony whereof, I Samuel Douglas McEnery, gov-
1319 ernor of the State of Louisiana, have caused these letters to be made patent and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of Baton Rouge, on the 7 day of Nov. in the year of our Lord, one thousand eight hundred and eighty 7—and of the Independence of the United States the one hundred and 12.

By the governor:

S. D. McENERY.
JAMES L. LOBDELL,
Register of State Land Office.

Record of patent vol. 24 page 78.

STATE OF LOUISIANA,
City of Baton Rouge.

1320 I, A. W. Crandell, register of State land office, do hereby certify that the within and foregoing is a true and correct

copy of record of patent No. 1039 as appearing in volume No. 24 page 78, of record at this office.

Given under my hand and seal of office, this 8th day June A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(Endorsed:) Document No. 87 Offered by State of Louisiana August 25, 1904 Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905 James H. McKenney, clerk.

1321 DOCUMENT No. 88.

THE STATE OF LOUISIANA.

Patent (Vignette) No. 1038.

To all to whom these presents shall come, Greeting:

Whereas, J. C. Gilmore of the parish of Orleans in the State of Louisiana, purchased per certificate No. 769 N. S. L. sec. 11 act 75 of 1880, Nov. 7, 1887, frl, secs. 5, 6, 7 & 8, S. W. 4 sec. 18; N. E. 4 of N. W. 4 sec. 19 and W. 2 of *of* section No. 31 in township No. 11 S. range No. 20 E. in the S. E. E. of R. land district, parish of St. Bernard containing 990.00/100 acres according to the official plat of the survey of said lands in the State land office.

Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and by these presents does give, grant and sell unto the said J. C. Gilmore and to his heirs the above described land, to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said J. C. Gilmore and to his heirs and assigns forever.

In testimony whereof, I, Samuel Douglas McEnery, governor of the State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of Baton Rouge, on the 7th day of Nov. in the year of our Lord one thousand eight hundred and eighty 7, and of the Independence of the United States the one hundred and 12.

By the governor:

S. D. McENERY.
JAMES L. LOBDELL,
Register of State Land Office.

Record of patent vol. 24 page 78.

STATE OF LOUISIANA, }
City of Baton Rouge. }

I, A. W. Crandell, register of State land office, do hereby certify that the within and foregoing is a true and correct copy of record of patent No. 193, as appearing in volume No. 15, page 93, of record at this office.

Given under my hand and seal of office, this 8th day June A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(Endorsed:) Document No. 88 Offered by State of Louisiana August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar 13, 1905, James H. McKenney, clerk.

1322 DOCUMENT No. 89.

THE STATE OF LOUISIANA.

Patent (Vignette) No. 1040.

To all to whom these presents shall come, Greeting:

Whereas, J. C. Gilmore of the parish of Orleans in the State of Louisiana, purchased per certificate No. 771 N. S. L. sec. 11, act 75 of 1880, Nov. 7, 1887 W. 2 of N. E. 4 & E. 2 of N. W. 4 of *of* section No. 6 in township No. 12 S. range No. 20 E. in the S. E. E. of R. land district, parish of St. Bernard containing 160,00/100 acres according to the official plat of the survey of said lands in the State land office.

Now know ye, that the State of Louisiana, in consideration of the premises and in conformity with law in such case made and provided, has given, granted and sold, and by these presents does give, grant and sell unto the said J. C. Gilmore and to his heirs, the above described land, to have and to hold the same together with all the rights, titles and privileges thereunto belonging unto the said J. C. Gilmore and to his heirs and assigns forever.

In testimony whereof, I, Samuel Douglas McEnery, governor of the State of Louisiana, have caused these letters to be made patent, and the seal of the State land office to be hereunto affixed.

Given under my hand at the city of Baton Rouge on the 7 day of Nov. in the year of our Lord, one thousand eight hundred and eighty 7, and of the Independence of the United States the one hundred and 12.

By the governor:

S. D. McENERY.
JAMES L. LOBDELL,
Register of the State Land Office.

Record of patent, vol. 24, page 79.

STATE OF LOUISIANA, }
Baton Rouge. }

I, A. W. Crandell, register of the State land office, do hereby certify the within and foregoing to be a true and correct copy of the record of patent No. 1040; as recorded in Patent Record No. 24—page No. 79, on file in this office.

Given under my hand and seal of office, on this the 7th day of June A. D. 1904.

[Seal of Land Office, State of Louisiana.]

A. W. CRANDELL,
Register of the State Land Office.

(JUMEL, C.)

(Endorsed:) Document No. 89 offered by State of Louisiana August 25, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

1323 DOCUMENT No. 90.

(Bill Head.) 1145 (in pencil).

THREE MILE, LA., 11/1901.

BOUGHT OF AHERN & WENTZELL.

THE THREE MILE GROCERY AND BARROOM.

DEALERS IN STAPLE AND FANCY GROCERIES, WINES, LIQUORS AND CIGARS.

(Review Print, Biloxi, Miss.)

(Endorsed:) Document 90 offered by State of Louisiana Aug. 26, 1904. Frank H. Mortimer, comm'r. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1324 DOCUMENT No. 91.

(Bill Head.)

E. Ahern.
E. Wentzell.

THREE MILE, LA., April 15, 1902.

Mr. Narcis Lanius.

BOUGHT OF AHERN & WENTZELL.

THE THREE MILE GROCERY AND BARROOM.

DEALERS IN STAPLE AND FANCY GROCERIES, WINES, LIQUORS AND CIGARS.

(Biloxi Review Print, Biloxi, Miss.)

Dear friend Narcis I write you these few lines to tell you that the sand flies is Pretty Bad out here Sunday and Monday all day. Tell my mother that I am well. And I don't know when I come home I might go with Mst Wentzell Narcis tell Anna Ahern that Eugene caught to red birds in the house and he is going to send them home by the fraters when they come out Tell Maud Baker that the next time I will send her the letter It will be in Thomilson box. Narcis answer this letter I am wood gathered today

OSCAR JOHNSON.

1325 (Endorsed:) Document 91 offered by State of Louisiana, Aug. 26, 1904 Frank H. Mortimer, comm'r. Office Supreme Court U. S. Filed Mar. 13, 1905 James H. McKenney, clerk.

1326 DOCUMENT No. 92.

(Bill Head.)

E. Ahern.
E. Wentzell.

THREE MILE, LA., 11/23 DYS., 1901.

M-. Barge Maud.

BOUGHT OF AHERN & WENTZELL

THE THREE MILE GROCERY AND BARROOM.

DEALERS IN STAPLE AND FANCY GROCERIES, WINES, LIQUORS AND CIGARS.

(Biloxi Review Print, Biloxi, Miss.)

Oil 20	Potatoes 25.....	280
		225
		2

Paid Eugene Ahern
GROS.

Balance due barge Maud 1835..... 1610

Paid Eugene Ahern in full.

1327 (On back :)

250	50
20	30
20	20
290	100
	75
1680	40
525	15
1175	
525	
90	

(Endorsed :) Document 92 offered by State of Louisiana August 26, 1904 Frank H. Mortimer, comm'r. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1328 DOCUMENT No. 93.

(Bill Head.)

E. Ahern.
E. Wentzell.

THREE MILE, LA., ——, 190–.

M—— ——

BOUGHT OF AHERN AND WENTZELL.

THE THREE MILE GROCERY AND BARROOM.

DEALERS IN STAPLE AND FANCY GROCERIES, WINES, LIQUORS AND CIGARS.

(Biloxi Review Print, Biloxi, Miss.)

445	445	660	445
150	295	115	115
—	—	—	—
295	80		560
150			
—			
445			

14
40
—
5) 560
—
1.12

560
115
—
445

(On back of bill head:)

5) 560	560	445
—	115	150
112	—	—
	445	295
	150	
	—	
	295	

1329 (Endorsed:) Document No. 93 offered by State of Louisiana Aug. 26, 1904. Frank H. Mortimer, comm'r. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1330 DOCUMENT No. 94.

(Bill Head.)

E. Ahern.
E. Wentzell.

THREE MILE, LA., ——, 190–.

M——

BOUGHT OF AHERN & WENTZELL.

THE THREE MILE GROCERY AND BARROOM.

DEALERS IN STAPLE AND FANCY GROCERIES, WINES, LIQUORS AND CIGARS.

(Biloxi Review Print, Biloxi, Miss.)

(Endorsed:) Document No. 94 offered by State of Louisiana Aug. 26, 1904 Frank H. Mortimer comm'r. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1331 DOCUMENT No. 95.

(Bill Head.)

E. Ahern.
E. Wentzell.

THREE MILE, LA., ——, 190–.

M——

BOUGHT OF AHERN & WENTZELL.

THE THREE MILE GROCERY AND BARROOM.

DEALERS IN STAPLE AND FANCY GROCERIES, WINES, LIQUORS AND CIGARS.

(Biloxi Review Print, Biloxi, Miss.)

			97½	
			40	
	Edw. Wade	200		
		2303	800	7800
			46	33720
		97¹ | 270		41420
10 65 10 | 85		4 |	2900	5090
		398		88030
		20000		
	Ed Wentzell	230		
	Sallie W.			
		2000		10351½
		230		4¢
		1770		41400
30 45 10 20 | 105 80 | 85		270		
		2000		

14500

(Other marks illegible.)

1332 (Endorsed:) Document No. 95 offered by State of Louisiana, Aug. 26, 1904 Frank H. Mortimer, comm'r. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1333 DOCUMENT No. 96.

(Envelope.)

(Postmark:)

New Orleans, La.,
Oct. 30,
3.30 p. m.,
1901.

(Penalty stamp:)

Treasury Department,
Office of Collector of Internal Revenue,
New Orleans, La.
Official Business.
Penalty for Private Use, $300.

(Address:)

AHRENS & WENTZELL,
Biloxi,
Miss.

1334 (On back of envelope:)

Capt. J. D. Raley. Masters had U. S. license at Three Mile 1901 & 1902. (Postmark:) Biloxi Miss. Oct. 31 6 a. m. 1901 rec'd.

Day sales.....	50
	1 00
	1 00
	2.50
	1 00
	1 00
	50
	25
	2 05
	10
	4 15
	50
	50
	3 80
	45
	2.20
	10
	3 60
	25 00

(Endorsed:) Document 96 Offered by State of Louisiana Aug. 26, 1904 Frank H. Mortimer, comm'r. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

1335 DOCUMENT No. 97.

H. M. Folkes, M. D., President and Manager. M. L. Talbot, M. D., Superintendent.

Biloxi Sanatorium.

(Vignette.)

Biloxi Sanatorium.

Biloxi, Miss.

BILOXI, MISS., Aug. 23, 1904.

This certifies that I now have under treatment, Mr. Ed. Wentzell who is suffering from a wound of the left foot made by an old nail deeply penetrating the ball of the foot and causing much pain and swelling.

In my opinion, it might prove injurious to him to have to do any considerable amount of moving around on it.

Respt., H. M. FOLKES, M. D.

H-HMF.

(Endorsed:) Document No. 97 Offered by State of Louisiana, August 26, 1904. F. H. Mortimer comm'r. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

1336 DOCUMENT No. 98.

BILOXI, MISS.

DEAR SIR: I am sorry but will be unable to attend court on said Friday Aug. 26th.

Yours truly, EDDIE WENTZELL,
Biloxi, Miss.

(Endorsed:) Document No. 98 Offered by State of Louisiana Aug. 26, 1904. Frank H. Mortimer, comm'r. Office Supreme Court U. S. Filed Mar. 13, 1905 James H. McKenney, clerk.

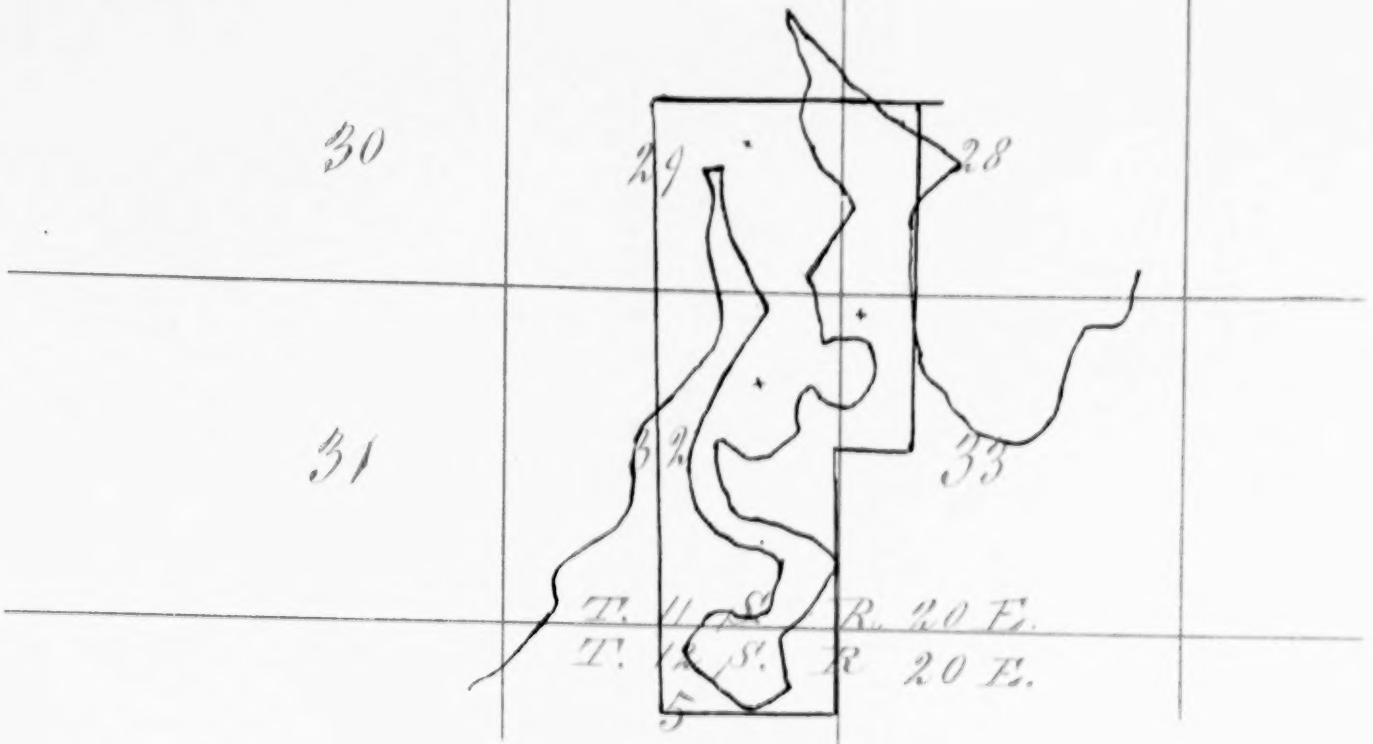
1337 DOCUMENT No. 99.

STATE OF LOUISIANA,
Office of Secretary of State, City of Baton Rouge.

I hereby certify that the annexed and following page is a true and correct transcript of the original of act No. 26 of 1904, on file in this office, as is shown by comparing the same.

Witness my hand and seal of office this 1st day of September, 1904.

[SEAL.] EUGENE J. McGIVNEY,
Ass't Secretary of State.



New Orleans
Nov. 10th 1890.

I certify the above is true & correct copy taken from the official records on

New Orleans
Nov. 10th 1890.

I certify the above is true & correct
copy taken from the official records on
file in the Surveyor Gen'l. office in
the custom House N. O. La.

J. N. Burke C. E.
Deputy U. S. Surveyor, &
Surveyor of St Bernard.

Act No. 26.

Senate Concurrent Resolution.

Be it resolved by the senate of the State of Louisiana, the house of representatives concurring, That the action of his excellency, William W. Heard, governor, in instituting in the Supreme Court of the United States, on the part of the State of Louisiana, a suit against the State of Mississippi to determine the water boundary between the two States, be approved, ratified and confirmed.

(Signed) R. H. SNYDER,
Speaker of the House of Representatives.

(Signed) J. Y. SANDERS,
Lieutenant Governor and President of the Senate.

Approved, June 17, A. D. 1904.

(Signed) NEWTON C. BLANCHARD,
Governor of the State of Louisiana.

(Endorsed:) Document No. 99 Offered by the State of Louisiana Sept. 6, 1904 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

(Here follows map marked page 1338, endorsed as follows:)

1339 (Endorsed.)
DOCUMENT 100.
Offered by the State of Louisiana September 15, 1904.
Wm. D. Bullard, Commissioner.
Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, Clerk.

1340 DOCUMENT No. 101.

State Land Office.

STATE OF LOUISIANA, }
City of Baton Rouge. }

I, Chas. E. Bauer, clerk of the State land office do hereby certi
that the annexed page is a true and correct copy of warrant N
5696, sold to Mrs. Ann B. Gordon, on file in this office.

Given under my hand and seal of office, this 5th. day of Septem
ber, A. D., 1904.

[Seal of Land Office, State of Louisiana.]

CHAS. E. BAUER,
Clerk of the State Land Office.

Land Office of the State of Louisiana.

Swamp and Overflowed Lands.

Warrant No. 5696.

To all whom it may concern:

Be it known, and made manifest, that in pursuance of act N
197 of the General Assembly of the State of Louisiana, approve
March 17th., 1859, B. Haralson, register of the land office, and R. A
Hunter, treasurer of the State and receiver of the land office, di
cause to be sold at the city of Baton Rouge, on the 28th. day
April, 1859, a warrant, No. 5696 for two hundred and seventy-thr
36/— acres of land, donated as swamp and overflowed land, by ac
of Congress of the 2nd March, 1849, and 25th September, 1850, an
to be disposed of under the provisions of said act of the Gener
Assembly, when Mrs. Ann B. Gordon became the purchaser there
for sixty-eight 34/100 dollars, which were paid to the receiv
aforesaid.

Now therefore, we do hereby sell and warrant to the said Ann
Gordon and hereby authorize her, her heirs and assigns, to locat
said warrant upon any of the swamp lands within the State of Louis
ana, subject to location and sale under the act aforesaid.

In faith whereof, we have hereunto subscribed our names an
affixed the seals of our respective offices, at the city of Baton Roug
the 28th day of April, 1859.

[SEAL.]

(Signed) ——— ———,
Register of the Land Office.
R. A. HUNTER,
Treasurer and Receiver of the Land Office.

(Endorsed:) Document No. 101. Offered by the State of Louis
ana September 15, 1904. Wm. D. Bullard commissioner. Offic
Supreme Court U. S. Filed Mar. 13 1905 James H. McKenne
clerk.

1341 DOCUMENT No. 102.

State Land Office.

STATE OF LOUISIANA, }
City of Baton Rouge. }

I, Chas. E. Bauer, clerk of the State land office, do hereby certify that the annexed page is a true and correct copy of warrant No. 7785, sold to Henry Florence, on file in this office.

Given under my hand and seal of office, this 5th, day of September, A. D. 1904.

[Seal of Land Office, State of Louisiana.]

CHAS. E. BAUER,
Clerk of the State Land Office.

Land Office of the State of Louisiana.

Swamp and Overflow Lands.

Warrant No. 7785.

To all whom it may concern:

Be it known and made manifest, that in pursuance to act No. 197 of the General Assembly of the State of Louisiana, approved March 17, 1859, B. Haralson, register of the land office, and R. A. Hunter, treasurer of the State and receiver of the land office, did cause to be sold at the city of Baton Rouge, on the 22nd November, 1859, a warrant, No. 7785 for 115 tidal overflowed acres of land, donated as swamp and overflowed land, by acts of Congress of the 2nd March, 1849, and 25th September, 1850, and to be disposed of under the provisions of said act of the General Assembly, when Henry Florence became the purchaser thereof for twenty-eight 75/100 dollars, which were paid to the receiver aforesaid.

Now therefore, we do hereby sell and warrant to the said Henry Florence and hereby authorize him, his heirs and assigns, to locate said warrant upon any of the swamp lands within the State of Louisiana, subject to location and sale under the act aforesaid.

In faith whereof, we have hereunto subscribed our names and affixed the seals of our respective offices, at the city of Baton Rouge, the 22nd day of November, 1859.

——— ———,
Register of the Land Office.

[SEAL.]
(Signed) R. A. HUNTER,
Treasurer and Receiver of the Land Office.

(Endorsed:) Document No. 102. Offered by the State of Louisiana September 15, 1904. Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13 1906, James H. McKenney, clerk.

1342 DOCUMENT No. 103.

STATE OF LOUISIANA.

Act 65 of 1884.

An Act to Empower the Attorney General to Institute and Prosecute Suits Without Security or Advanced Costs and Without Bond.

Be it enacted by the General Assembly of the State of Louisiana, That the attorney general be, and he is hereby authorized and empowered to institute and prosecute any and all suits he may deem necessary for the protection of the interests and rights of the State; and no court of this State nor officer thereof shall demand of the State or the attorney general any security for costs, or any advanced costs but the costs for which the State may become liable shall be paid by the attorney general out of the proper appropriation therefor. That in any and all cases where bond is required by law in legal proceedings, the State and the attorney general shall be dispensed from giving such bond.

SEC. 2. Be it further enacted &c. That the defendant shall not be required to give security for costs or to advance costs in any case in which suit is brought by the State.

(Signed) H. W. OGDEN,
Speaker of the House of Representatives.
CLAY KNOBLOCK,
Lieut. Governor and President of the Senate.

Approved July 9th 1884.

S. D. McENERY,
Governor of the State of Louisiana.

A true copy from the original.

OSCAR AROYO,
Secretary of State.

(Endorsed:) Document No. 103 offered by the State of Louisiana. Filed Sept. 22. 1904 Wm. D. Bullard, commissioner for the State of Mississippi. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

1343 DOCUMENT No. 104.

U. S. Act of Congress Annexing Part of West Florida to the Territory of Mississippi, &c.

"All that portion or territory lying east of Pearl river, west of the Perdido, and south of the thirty-first degree of latitude, shall be, and the same is hereby, annexed to the Mississippi territory; to be gov-

erned by the laws now in force therein, or which may hereafter be enacted, and the laws and ordinances of the United States relative thereto, in like manner, as if the same had originally formed a part of said territory; and until otherwise provided by law, the inhabitants of said district hereby annexed to the Mississippi territory shall be entitled to one representative in the General Assembly."

Act of Congress, May 14th, 1812, vol. XI, p. 175.

Jackson, Hancock, and Harrison Counties, in the Territory and State of Mississippi.

Act of Dec. 16, 1812 (Stat., p. 36).

SEC. II. All that tract of country within the following boundaries, to-wit: South of the thirty-first degree of north latitude and west of the dividing ridge between the Mobile and Pascagoula, and east of a line running due north from the middle of the bay of Biloxi to the thirty-first degree of north latitude, shall compose a county which shall be called "Jackson."

SEC. III. All that tract of country lying south of the thirty-first degree of north latitude and west of the line running due north from the middle of the bay of Biloxi to the thirty-first degree of north latitude and east of Pearl river, shall compose the county, and shall be known by the name of "Hancock."

Digest of Miss. Territorial Statutes 1816, digested by authority of the Gen. Ass., art. 63, p. 108.

U. S. act of Congress March 1, 1817, 2d sec., defines the boundaries of Mississippi, "including all islands within six leagues of the shore."

The constitution of Mississippi, August 15, 1817, in its preamble contains these words: "thence westwardly, including all islands within six leagues of the shore to the most eastern junction of Pearl river with Lake Borgne."

The 2nd constitution of Mississippi, adopted Oct. 26th, 1832, contains no discription of boundaries of the State.

1344 Chapter 36, Laws of Mississippi, 1839, p. 56.

"An Act to Provide for a Survey of the Mississippi Coast Section.

SEC. 1. Be it enacted by the legislature of the State of Mississippi, That an engineer shall be appointed by the governor of the State whose duty it shall be to make, as early as practicable, a survey of the whole of the sea coast upon the southern boundary of this State, who shall lay the same before the legislature at its next session.

SEC. 2. And be it further enacted, That this act shall be enforced from and after its passage.

Approved Feb. 14, 1839.

An Act to Establish a New County in this State, to be Called the County of "Harrison."

SEC. 1. Be it enacted by the legislature of the State of Mississippi, That a new county shall be, and the same is hereby created in this State, to be bounded as follows: Beginning at the point where the line dividing ranges thirteen and fourteen strikes the bay of St. Louis, then with said line due north to the northern boundary of township three south, thence due east to the center of range nine, thence south to the bay of Biloxi, thence southeast to the Point Caddi, thence westwardly with the sea shore, and the shore of the bay of St. Louis to the beginning, which county now includes a portion of the county of Hancock, and a portion of the county of Jackson.

Chap. 35, Laws of Miss. p. 145 approved Feb. 5, 1841.

An Act to Extend the Jurisdiction of the County of Harrison and for Other Purposes.

SECTION I. Be it enacted by the legislature of the State of Mississippi That the county of Harrison shall be bounded on the south by the southern boundary of the State of Mississippi."

Laws of Miss. chap. 52, p. 174, approved Feb. 22, 1842.

All the foregoing acts are cited and quoted from, giving the texts, in Hutchinson's Code of Mississippi of 1848, adopted by an act of the legislature approved March 2, 1848, under caption of "Counties and their Boundaries" p. 70 *et seq.*

Also in Revised Code of Miss. adopted and approved Feb. 2, 1857.

1345 An Act to Provide a New Code of Laws for the State of Mississippi and for Other Purposes.

SEC. 1. Be it enacted by the Legislature of the State of Mississippi, That it shall be the duty of the judges of the high court of errors and appeals, or a majority of them, to appoint three commissioners to revise, digest, and codify the laws of this State, and to propose such alterations or amendments thereof and such new laws as they may deem expedient."

Chap. 50, p. 154 Laws of Miss. Approved March 1, 1857.
Code approved Feb. 2, 1857.

"In defining the boundaries by the act of first of March 1817, which authorized the people of the territory to form a State government, the territory east of the eastern branch of Pearl river, and south of the thirty-first degree of north latitude, being the country bordering on the gulf of Mexico, including the islands within six leagues of the shore, was added to, or included in the State of Mississippi."

Introductory remarks, Code 1857 p. 49.

Limits and Divisions of Boundaries of the State of Mississippi.

ART. 2. * * * and the counties bordering on the gulf of Mexico, to-wit: Jackson, Harrison and Hancock, shall respectively have and possess jurisdiction and extend to the southern boundary of the State within the space embraced by extending their boundary lines which strike the gulf of Mexico or the inlets thereto, on a continuous direct course to the southern boundary of the State, including all islands that may lie within the limi-s thus defined."

Introductory remarks, Code of 1857 p. 80.

"The western boundary of this section was only defined as being within the United States and the southern boundary of this cession was defined by reference to the dividing line between Spain and the United States. It becomes necessary therefore, to ascertain the true western boundary, and also the southern boundary of the United States.

Miss. Code of 1857, p. 47.

Art. 88 of the Code of Miss. of 1857 leaves the boundaries of Harrison county as provided for by acts of 1841 and 1842, without mentioning anything about the islands. There are no mentions of southern boundary of Hancock county in the Code of 1857, except what is contained in introductory remarks.

(Pp. 49, 50, 51, already quoted.)

Hardee's Map.

A State Map.

"I deem the publication and distribution of a State map to
1346 the various State and county officers whose business requires the possession of one, a matter of sufficient importance to call your attention to it. It should contain a correct delineation of everything of importance and information, that it can embody and be a reference not only to our officials, but to all persons entrusted in the affairs of the State, whose correctness should settle all doubts upon any points or subjects it embodied."

Extract from Gov. Humphrey's message to Mississippi legislature, Oct. 16th, 1866, p. 17 Miss. Journal of House, 1866–1867.

Chapter XVII, Laws of Mississippi, 1866 & 1867, p. 27, Approved Oct. 26, 1866.

'An Act to Create the Office of State Engineer for the Purpose of Compiling a New State Map under Certain Conditions.

SEC. 1. Be it enacted by the legislature of the State of Mississippi, That the governor is hereby authorized to appoint a State engineer

whose duty it shall be, under his direction, to compile a geographical, historical and statistical map of the State; said map to be not less than five feet by three feet in size, to contain such information as the governor in his judgment may deem necessary, and before publication to receive his sanction and approval.

* * * * * * *

SEC. 3. * * * But the said engineer shall be required to enter into a good and acceptable bond and security in the full sum to be received for the delivery to the State, without further compensation than that which is hereinbefore provided, of such a number of the copies of said map for the use and benefit of the State as will carry out the following schedule for distribution, viz; the secretary of state, to whom the maps will be delivered, shall cause three copies to be furnished to each county in the State, to become the property of said counties and for use respectively in the offices of the sheriffs, and the circuit and probate clerks, at each county in the State. He shall also supply the different State officers at the capitol each with a copy, and six copies for the State university, and besides these, shall have delivered to him such additional copies as will enable the governor to exchange maps of other States and Territories, and the maps so received in exchange shall become a part of the property of the State library.

SEC. 4. Be it further enacted, That it shall be the duty of the different county officers throughout the State to afford the State engineer every facility for obtaining such information as he may require in the compilation of said work."

Report on Governor's Message.

* * * * * * *

"State map—to a select committee of three."

Miss. House Journal, 1866, p. 27.

"On motion of Mr. Webb of Amite, the report of the committee was received and agreed to."

1347 Miss. House Journal, 1866, p. 27.

"The speaker announced as the select committee of three on State map, Messrs. Hunter, Liddell and Williams."

Ibid. p. 29.

Map Bill Reported with Amendments.

Ibid., p. 98.

Amendments to 3d section were:

1st amendment: Three maps to each county and for use respectively in the offices of the sheriff and the circuit and probate clerks at each county *site*."

2nd amendment to 3d section, by adding "and six copies to the University of Mississippi."

"On motion of Mr. Suratt the rule was suspended, the bill was read the third time and passed as amended."

"That portion of the message which refers to a State map was, on motion of Mr. Sevett, referred to a select committee consisting of Messrs. Sevett, Napier and Stephens."

Miss. Senate Journal, 1866 & 1867, p. 25.

Bill reported favorably, p. 72 *ibid.*

Bill finally passed, p. 97 *ibid.*

"Yeas: Mr. President, Messrs. Bonford, Brooks, Brown, Cain, Hawkins, Hooker, Jackson, Lowry, Lyles, Miller, Montgomery, Nosely, Napier, Seal, Stephens, Stone, Sevett, Wisdon, Wolff and Yerger—21.

Nays: Messrs. Anderson, Lyle, Martin, McCargo, Robinson and Taylor."

Constitution of the State of Mississippi, 1869, Article II.

Boundaries of the State.

The limits and boundaries of the State of Mississippi shall remain as now established by law.

The Constitution of Mississippi.

Dec. 1, 1869.

Art. II. Boundaries of the State.

"The limits and boundaries of the State of Mississippi shall remain as so established by law."

Miss. Code of 1871, p. II. State Boundaries, etc.

"Thence westwardly including all islands within six leagues of the shore, to the most eastern junction of Pearl river and Lake Borgne; * * * comprising therein six leagues from the shore of the Gulf boundaries, except the jurisdiction ceded to the United States over Ship island and one mile adjacent thereto."

Revised Civil Code of Mississippi, 1871, by Amos Johnson.

Act Approved May 12th, 1871, p. 17, # 40.

"*Hancock county* (established Dec. 14, 1812) is bounded by beginning at that point on Pearl river where the lines between townships two and three south intersect said river; thence east on said township lines to the line between ranges thirteen and fourteen west; thence south on said range line, to the boundary of the
1348 State on the gulf of Mexico; thence westwardly on said boundary to the eastern junction of Pearl river with Lake Borgne; thence up Pearl river to the beginning.

41. *Harrison county* (established Feb. 5, 1841), is bounded by beginning at the northwest corner of township two, range thirteen west; thence east to the line between ranges nine and ten west; thence south with said range line between townships two and three south; thence east to the center of range nine west; thence south on the section lines, to the southern boundary of the State on the gulf of Mexico; thence westwardly on said boundary line to the line between ranges thirteen and fourteen west; thence north on said range line to the beginnings."

Sec. 8, Code of 1871, p. 8.

"From and after the first day of October A. D. 1871, this revised code shall take effect, and be received in use, as the statutory laws of Mississippi of a general nature, and shall supercede and repeal all pre-existing laws of a general nature, the subjects of which are herein revised and consolidated.

Approved May 12, 1871.

Sec. 44 Rev. Code of 1880, p. 55.

In boundaries of Hancock county includes "thence westwardly, including all the islands within six leagues of the shore of the gulf of Mexico."

The same clause occurs in boundaries of county of Harrison.

(*Ibid.*, sec. 45.)

Revised Code of Mississippi—1880.

44. *Hancock county* (established December 14, 1812), is bounded by beginning at the point in the middle of East Pearl river, where the line between townships two and three, south, in range eighteen, west intersects said river; thence due east, along said township line to the line between ranges fourteen and thirteen, west; thence due south, along said range line, to the middle of the bay of St. Louis; thence along the middle of said bay of St. Louis, southwardly to its entrance; thence due south to the southern boundary of the State of Mississippi in the gulf of Mexico; thence westwardly with said boundary, including all the islands within six leagues of the shores of the Gulf and Lake Borgne, to the most eastern junction of Pearl river and Lake Borgne, and to the east mouth of Pearl river; thence up said river by the middle thereof, to the point of beginning.

45. Harrison county (established February 5th., 1841), is bounded by beginning at the northwest corner of township two south, in range thirteen, west; thence extending due east, along the line between townships one and two, to the line between sections three and four, township two, range nine, west; thence due south, through the middle of said range nine, to the middle of the bay of Biloxi; thence along the middle of said bay of Biloxi to its entrance, at the east end of Deer island; thence due south to the southern boundary of the State of Mississippi, on the gulf of Mexico; thence

westwardly along said boundary to a point from which a line due north strikes the middle of the Bay St. Louis; thence due north to the entrance of said bay, including all the islands within six leagues of the shore of the gulf of Mexico; thence along the middle of said bay of St. Louis, northwardly to a point from whence the point at which the line between ranges fourteen and thirteen comes to said bay bears due north; thence due north to the place of beginning.

1349 # 98. The foregoing sections are intended to define the boundaries of counties as heretofore established by law; and if the boundaries as defined in said sections are not the same as heretofore established by law, the former law on that subject shall not be held to be repealed or affected thereby, but shall remain in force as to said boundaries, notwithstanding the passage of this act.

Revised Miss. Code of 1880, sec. 98, p. 70.

Chapter XVIII, Laws of Mississippi, 1882, p. 26.

SEC. 5. Be it further enacted That it shall be the duty of the said commissioner, under the direction of the said board to cause to be made geographical, geological and typographical maps and charts of this State, showing the various counties, with all their water courses, railroads, lakes, timber belts, classifications of soil."

Chap. XVIII, Laws of Mississippi, p. 45, 1884.

"An Act to Continue the Department of Immigration and Agriculture Established in Pursuance of Art. 12, Sec. 23, of the Constitution, and for Other Purposes."

Constitution of the State of Mississippi, 1890.

Article 2.

Boundaries of the State.

SEC. 3. The limits and boundaries of the State of Mississippi are as follows: to-wit:—Beginning on the Mississippi river (meaning thereby the center of said river or thread of the stream) where the southern boundary line of the State of Tennessee strikes the same, as run by B. A. Ludlow, D. W. Connelly and W. Petrie, commissioners appointed for that purpose on the part of the State of Mississippi A. D. 1837, and J. D. Graham and Austin Miller, commissioners appointed for that purpose on the part of the State of Tennessee; thence east along the said boundary line of the State of Tennessee to a point on the west bank of the Tennessee river, six four-pole chains south of and above the mouth of Yellow creek; thence up the said river to the mouth of Bear creek; thence by a direct line to what was formerly the north-west corner of the county of Washington, Alabama thence on a direct line to a point ten miles east of the Pascagoula river on the gulf of Mexico; thence,

westwardly, including all the islands within six leagues of the shore to the most eastern junction of Pearl river with Lake Borgne; thence up said Pearl river to the thirty first degree of north latitude; thence west along said degree of latitude to the middle or thread of the stream, of the Mississippi river, thence up the middle of the Mississippi river, to the place of beginning, including all islands lying east of the thread of the stream of said river, and also including all lands which were at any time heretofore a part of this State.

The Constitution of Mississippi of 1890, art. 2, contains the provision including the islands.

1350 Annotated Code of Mississippi, 1892.

§ 368. *Hancock county* (established December 14, 1812) is bounded by beginning at the point in the middle of East Pearl river, where the line between townships four and five, south, in range eighteen, west, intersects said river, thence due east along said township line to the line between ranges fourteen and thirteen, west; thence due south along said range line to the middle of the bay of St. Louis; thence along the middle of said bay of St. Louis southwardly to its entrance; thence due south to the southern boundary of the State of Mississippi in the gulf of Mexico; thence westwardly with said boundary, including all the islands within six leagues of the shores of the gulf of Mexico and Lake Borgne, to the most eastern junction of Pearl river and Lake Borgne, and to the east mouth of Pearl river; thence up said river by the middle thereof to the point of beginning, county site, bay — St. Louis.

§ 369. *Harrison county* (established February 5, 1841) is bounded by beginning at the north-west corner of township two, south in range thirteen, west; thence extending due east along line between township one and two to the line between sections three and four, township two, range nine, west; thence due south through the middle of said range nine to the middle of the bay of Biloxi; thence along the middle of said bay of Biloxi to its entrance at the east end of Deer island; thence due south to the southern boundary of the State of Mississippi on the gulf of Mexico; thence westwardly along said boundary to a point from which a line due north strikes the middle of the bay of St. Louis; thence due north to the entrance of said bay, including all the islands within six leagues of the shore of the gulf of Mexico; thence along the middle of said bay of St. Louis northwardly to a point from whence the point at which the line between ranges fourteen and thirteen comes to said bay bears due north.; thence due north to the place of beginning, county site, Mississippi city.

Mississippi Code of 1892.

In giving boundaries of Hancock and Harrison counties, includes all islands within six leagues of the shore. (Secs. 368 & 369.)

(Endorsed:) Document No. 104 offered by the State of Louisiana. Filed Sept. 22. 1904 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

1351 DOCUMENT No. 105.

CHAPTER 1.

An Act Supplementary to an Act Entitled "An Act Providing for the Superior Court Going Circuit for Establishing Courts of Inferior Jurisdiction.

SEC. 1. Be it enacted by the legislative council and house of representatives of the Territory of Orleans in general assembly convened. That for the purpose of carrying into effect the act to which this is a supplement, the Territory shall be, and hereby is divided into five districts, to be called superior court districts, in the manner following, viz.

The parish of the city of New Orleans with its precincts;
The parish of St. Bernard, commonly called La Terre aux Bœufs;
The parish of Plaquemines;
The parish of St. Charles;
And the parish of St. John,
Shall compose the first district.
The parish of St. James;
Of the Ascension;
Of the Assumption;
The settlement of the La Fourche;
The parish of Iberville, including the settlement of Galveztown;
Shall compose the second district.

That part of the Territory known under the name of Baton Rouge, Point Coupee, comprehending the parish of St. Francis, and the county of Concordia,
Shall compose the third district.
The counties of Ouachita, Rapides and Nachitoches,
Shall compose the fourth district,
And the counties of Opelousas,
And Attacapas,
Shall compose the fifth district.

SEC. 2. ——.

SEC. 9. And be it further enacted, That the said Territory shall be and the same is hereby divided into nineteen parishes as follows, to-wit:

The city of New Orleans with its precincts as they formerly stood, shall form the first parish;

The parish of St. Bernard, commonly called the Terre aux Beuf, shall form the second;

The third called the parish of Plaquemines, shall comprehend all that part of the country on both sides of the Mississippi below the Parish St. Bernard as far as the Balize;

The parish of St. Charles shall form the fourth parish;

The parish of St. John Baptist shall form the fifth;

The parish of St. James shall form the sixth;

The parish of Ascension, shall form the seventh.

The settlement of La Fourche shall be divided into two parishes, the nearest of which to the river, shall form the eight- parish, under the name of the parish of the Assumption, and shall include one half of the population;

The ninth parish shall consist of the other settlements in the lower part of La Fourche, and shall be called the Interior parish;

The parish of Iberville, including the settlements of Galveztowns shall form the tenth;

That part of the Territory known by the name of Baton Rouge, from that part which is opposite the bayou of Manchac until the lowest part of the mouth of the Falfe river, shall form the eleventh.

Pointe Coupee shall comprehend the parish of St. Francis and shall form the twelfth.

1352 The county of Concordia, as now established, shall form the thirteenth;

The settlements of Ouchita, shall form the fourteenth;

The settlement of Rapides and its former dependencies, shall form the fifteenth;

The Avoyelles shall form the sixteenth;

The parish of Nachitoches shall comprehend the parish of St. Francis, and shall form the seventeenth;

The parish of St. Landry in the Opelousas, shall form the eighteenth;

And the parish of Attacapas, called the parish of St. Martin, shall form the nineteenth.

And in case of any difficulty relative to the boundaries of the respective parishes above described, it shall be the duty of the person exercising the powers of governor of the territory to declare and establish the boundaries between those parishes in relation to which doubts may have arisen, and to give notice of such declaration and establishment, by public proclamation and otherwise as may be deemed expedient, and to submit the same to the next session of the legislature.

Sec. 32. And be it further enacted, That the division of the Territory into counties shall subsist for the purpose of making the election of the representatives of the territory, and levying the territorial taxes.

Sec. 33. And be it further enacted, That the act entitled "An act

for dividing the Territory of Orleans into counties, and establishing courts of inferior jurisdiction therein." be — the same is hereby repealed, except in what is expressly preserved by this act.

N. C. C. CLAIBORN,
Gov. of the Territory of Orleans.

Approved March 31, 1807.

An Act to Remove Certain Doubts Relative to the Limits of the Parishes of New Orleans, Plaquemine, and St. Bernard.

Be it enacted by the legislative council and house of representatives of the Territory of Orleans in General Assembly convened, That the limit of the parish of Orleans is hereby fixed at Dessales' plantation included on the right shore of the river below the city, and at the plantation of Toutant Beauregard inclusively on the left shore; that the limit of the parish of Plaquemine shall commence on the right shore of the river at the lower line of Dessales' plantation and on the left shore at the lower line of Dessales' plantation; and the limit of the parish of St. Bernard shall commence at Delasise's plantation inclusively, running along the settlements of the bayou of Terre aux Bœufs.

TH. URQUHART,
Speaker of the House of Representatives.
J. D. DEGOUTIN BELLECHASSE,
President of the Legislative Council.

Approved March 20th, 1809.
WILLIAM C. C. CLAIBORNE,
Governor of the Territory of Orleans.

1353 An Act to Amend the Act Entitled "An Act to Remove Certain Doubts Relating to the Limits of the Parishes of New Orleans, Plaquemines, and St. Bernard."

Be it enacted by the legislative council and house of representatives of the Territory of Orleans, in General Assembly convened, That the limit of the parish of New Orleans be, and that the same is hereby fixed at Dessale's plantation inclusively on the right bank of the river down to the city, and at the upper limits of Rinker's plantation on the left bank; that the limits of the parish of Plaquemines shall begin on the right bank at the inferior limits of Dessale's plantation, and on the left bank at the upper limits of Rinker's plantation inclusively; and that the limits of the parish of St. Bernard shall begin at the back lines of Lasise's plantation, including all the settlements on Bayou Terre aux Bœufs.

MAGLOIRE GUICHARD,
Speaker of the House of Representatives.
JEAN NOEL DESTREHAN,
President of the Legislative Council.

Approved, April 10th, 1811.
WILLIAM C. C. CLAIBORNE,
Governor of the Territory of Orleans.

An Act.

An Act Further to Determine the Limits of the Parish of St. Bernard.

Be it enacted by the senate and house of representatives of the State of Louisiana, in General Assembly convened, That from and after the passage hereof, the limits of the parish of St. Bernard shall be and the same are hereby removed, so as to comprehend the tract of country situate on the left bank of the River Mississippi, from Julian Poydras' plantation to the Canal des Pecheurs, and that all acts or parts of acts which may be contrary to the provisions and meaning of this act, shall be and the same are hereby repealed.

MGRE. GUICHARD,
Speaker of the House of Representatives.
N. MERRIAM,
President of the Senate.

Approved, February 22nd., 1817.
JAMES VILLIERE,
Governor of the State of Louisiana.

1354 An Act.

No. 14.

An Act to Determine the Limits between the Parishes of Plaquemines and St. Bernard.

Be it enacted by the senate and house of representatives of the State of Louisiana, in General Assembly convened, That the limits between the parishes of Plaquemines and St. Bernard shall be determined as follows, to wit: Beginning at the already established limits between Morgan and Poydras plantation on the river, and following the same one league from the river, thence running a straight line to the junction of the Bayous Grove and Mandeville thence following the middle of Bayou Mandeville to the Lake Lery thence to the southeast part of Lake Lery, thence running a line to the northeast part of Black bay to the Chandeleur bay.

(Signed) WM. HC. C. CLAIBORNE,
Speaker of the House of Representatives.

(Signed) FELIX GARCIA,
President of the Senate.

Approved January 12, 1842.
(Signed) A. B. ROMAN,
Governor of the State of Louisiana.

An Act to Provide for the Removal of the Seat of Justice of the Parish of St. Bernard and Re-divide said Parish into Wards.

SECTION 1. Be it enacted by the senate and house of representatives of the State of Louisiana in General Assembly convened, That the seat of justice of the parish of St. Bernard be and the same is hereby removed from the site heretofore occupied to such location as may be selected, according to the provisions of this act.

SEC. 2. Be it further enacted, etc., That the governor is hereby authorized and required to appoint three citizens of the parish of St. Bernard as commissioners, whose duty it shall be to select a suitable location for the seat of justice of said parish, at some convenient point not more than half a mile from the Mississippi river, and not below the Mississippi and Mexican Gulf ship canal. The said commissioners are authorized and required to secure a title in the name and on behalf of said parish in and to any suitable lot of ground at the point selected by them as the parish seat of justice, not to exceed five acres in area nor one thousand dollars in cost, upon which lot the said commissioners shall cause to be erected a courthouse and a parish jail, at a cost not to exceed fifteen thousand dollars. Said commissioners are authorized to lease for a term not to exceed two years *in* the necessary buildings for temporary use as a courthouse and jail, which buildings shall be located near the point selected for the seat of justice, and shall be occupied and used by the parish only until the permanent parish buildings shall have been erected.

SEC. 3. Be it further enacted, etc., That the said commissioners shall discharge the duties imposed upon them by this act, and assumed by them in accepting their appointment as such within the period of ninety days from the date of their appointment. At the expiration of ninety days from the date of their appointment, they shall report to the police jury of said parish their action in the premises. Said report shall contain a statement of the amount
1355 of indebtedness contracted by them in the name of and in behalf of said parish, together with an estimate of the cost of removing parish records and the movables belonging to the court house, and other parish offices from their present location to *to* the buildings leased by the commissioners for the temporary use of the parish. They shall also deliver to the police jury the original copies of all contracts and other papers which may have come into their hands pertaining to parish business while in the discharge of their duties as commissioners.

SEC. 4. Be it further enacted, etc., That the police jury for *for* the parish of St. Bernard are hereby authorized and required without delay, after having received the report of the commissioners required by section three of this act, to estimate and levy a tax of all the taxable property of the parish, which shall be sufficient to pay all the costs of grounds, buildings, lease and removal, herein above

stated, and the said tax shall be assessed and collected in curr funds, and in addition and in the same manner and subject to same penalties, as the present parish taxes are assessed and collect The proceeds of said special and additional taxes shall be appli exclusively and without delay to the payment of the debt or de contracted and *and* reported by said commissioners in accorda with the provisions of this act; provided, that no more than one-h of said tax shall be assessed and collected in any one year; and p vided further, that the whole amount shall be collected within th years from the date of letting the contract for the permanent bui ings.

SEC. 5. Be it further enacted, etc., That the parish of St. Bernard hereby divided into five wards, as follows: The first ward shall co mence with the upper line of said parish, and extend to the upp line of the plantation and extend to the lower line of the Merr plantation; the third ward shall commence with the lower line the Merritt plantation and extend to the lower limit of the Milla don plantation and extend to the mouth of Terre aux Bœuf; t fifth ward shall commence with the upper line of G. Proctor's pla tation and extend to Lake Borgne, including all that part of t parish known as Proctorville and La Chincha.

SEC. 6. Be it further enacted, etc., That all acts or parts of acts ordinances in conflict with this act are hereby repealed, and this a shall take effect from and after its passage.

(Signed) CHARLES W. LOWELL,
Speaker of the House of Representatives.
C. C. ANTOINE,
Lieutenant Governor and Pres. of the Senate.

Approved April 14, 1874.
(Signed) WILLIAM P. KELLOGG,
Governor of the State of Louisiana.

A true copy:
P. G. DESLONDE,
Secretary of State.

1356 No. 23.

An Act to Change the Boundary of the Parish of St. Bernard.

SECTION 1. Be it enacted by the senate and house of representa tives of the State of Louisiana in General Assembly convened, That hereafter the boundary of the parish of St. Bernard shall be from the left bank of the Mississippi river along the lower line of the property known and used as the United States barracks, and the prolongation of said line until it intersects the prolongation of the line of the south side of Florida walk, one of the avenues of the city of New Orleans, thence in an easterly direction to the point where



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the Canal des Pecheurs or Fishermen's canal intersects the Bayou Bienvenue, thence along the south side of said bayou to the Lake Borgne, and thence along the boundaries of said parish as now established to the left bank of said Mississippi river, where the parish of Plaquemines begins.

SEC. 3. Be it further enacted, etc., That this act takes effect from and after its passage, and that all laws in conflict with its provisions be and the same are hereby repealed.

(Signed) MICEAL HAHN,
Speaker of the House of Representatives.

(Signed) C. C. ANTOINE,
Lieutenant Governor and President of the Senate.

Approved April 5, 1875.

(Signed) WILLIAM P. KELLOGG.
Governor of the State of Louisiana.

A true copy;
P. G. DESLONDE,
Secretary of State.

(Endorsed:) Document No. 105. Offered by the State of Louisiana September 22, 1904. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

(Here follows map marked page 1357, endorsed as follows:)

1358

(Endorsed.)

EXHIBIT LOUISIANA 1.
Offered by State of Louisiana Aug. 25, 1904.
Frank H. Mortimer, Commissioner.

1359 EXHIBIT LOUISIANA No. 2.

J. T. S. 4–207. C. A. D.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., July 21, 1904.

I hereby certify that the annexed copy of letter dated July 9th 1904 to Mr. E. H. Nall, land commissioner, Jackson, Mississippi, is a true and literal exemplification of the letter press copy on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of [SEAL.] Washington, on the day and year above written.

W. A. RICHARDS,
Commissioner of the General Land Office.

1360 (Copy.)

"L."

1904–118,947. DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., July 9, 1904.

Address only the Commissioner of the General Land Office.

Mr. E. H. Nall, State land commissioner, Jackson, Mississippi.

SIR: Replying to your letter of the 30th ultimo, you are advised that photolithographic copies and tracings of the following plats showing islands surveyed as lying within the State of Mississippi (except as to Petit Bois island) and reckoned from St. Stephen's meridian can be furnished at the price placed opposite thereto.

1361 T. 8 S., R. 5 W.—Greenwood's island (abandoned military reservation), June 5, 1900, tracing $1.50 uncertified or $1.75 certified with stamp certificate.

T. 9 S., rgs. 3, 4 & 5 W. 10 " " 4 & 5 "	Petit Bois island	On 1 plat approved Feb. 4, 1847—25 cents uncertified or 50 cents with stamp certificate.
9 " " 5, 6 & 7 "	Horn island	

NOTE.—It shows where State line between Alabama and Mississippi crosses Petit Bois island.

T. 9 S., rgs. 4 & 5 W. 10 " " 4 & 5 "	Petit Bois island, all in Mississippi, showing changes on 1 plat approved July 29, 1847—25 cents uncertified or 50 with stamp certificate.

1362

T. 7 S., R. 9 W.	Deer island not subdivided into lots	On 1 plat approved Feb. 4, 1847.
8 " " 8 & 9 "		
9 " " 9 & 10 W.	Ship island	Tracing $2.00 uncertified or $2.25 with stamp certificate.
10 " " 10 "		
9 & 10 S., 11 W.,	Cat island	
8 & 9 " 6 "	Round island	
T. 7 S., R. 9 W.	Deer island subdivided into lots.	On 1 plat approved Aug. 5, 1897. Tracing $1. uncertified or $1.25 with stamp certificate.
8 " 8 & 9 "		

10 " R. 15 " —Showing St. Joseph's island not surveyed, and Grand Island acreage given, plat approved Aug. 14, 1828. 25 cents uncertified, or 50 cents with stamp certificate.

10 & 11 S., R. 17 & 18 E.—St. Helena meridian La., showing outlines of marsh, Half Moon, Petit pass and an unnamed island, approved July 31, 1846, surveyed as within the State of Louisiana and which lie within Lake Borgne and Mississippi sound and within six leagues of the main north shore thereof can be furnished at a cost of 25 cents uncertified or 50 cents with stamp certificate.

1363

By reference to inclosed portion of the map of the State of Louisiana, it will be seen that a line drawn parallel to the north-shore line of Lake Borgne and Mississippi sound and at a distance of six leagues therefrom, would include portions of townships 11, 12 and 13 south, ranges 17, 18 and 19 east; and townships 10, 11 and 12 south, range 20 east, St. Helena meridian, in St. Bernard parish, Louisiana, in which are to be found many tracts of land surrounded by water and which would therefore be denominated as islands, but which are in fact hummocks of land surrounded by the marsh and swamp in said townships. You are requested to state whether you desire copies of the plats showing such lands south of the south shore of Lake Borgne and Mississippi sound, including the islands shown among the bayous and lakes within the townships mentioned, or whether your inquiry relates only to the islands in tps. 10 and 11 south, ranges 17 and 18 E., which are shown on the map as islands within said bodies of water.

1364

1365 This office would be glad to furnish the plats desired gratis, but the statute provides that charges must be made.

Very respectfully, J. H. FIMPLE,
Acting Commissioner.

Inclosure.

(Endorsed:) State of Louisiana *vs.* State of Mississippi. Exhibit Louisiana No. 2 Offered by State of Louisiana Aug. 20, 1904. W. D. Bullard, commissioner. Office Supreme Court, U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1366 EXHIBIT LOUISIANA No. 3.

Memo.

MATTER OF ISLANDS—LOUISIANA & MISSISSIPPI.

LOUISIANA.

Marsh island, sec. 26, tp. 10 S., R. 17 E., S. E. dist. E. of R. Swamp.—Selected by State act M'ch 2/49 & app'd May 6/52.

Tract Book vol. 14 p'ge 36 says:— Sec. 26 Marsh I'd
& " 36 p't of Grand island
(La. plat 1846)

Round island, secs. 2 & 11, tp. 11 S., R. 17 E., S. E. dist. E. of R. Swamp.—Selected by State, act M'ch 2/49 & app'd M'y 6/52

T. B. vol. 14 p. 36 says: Secs. 1, 2, 11, 14, 22, 23, 25, 26, 27, 28, 33, 34, 35 & 36 *selected by State act M'ch 2/49*
& in pencil:—Sec. 1 part of Grand I'd
" 2 & 11 Round I'd
" 14 & 23 Petite Pass I'd

1367 *Louisiana Continued.*

Petite Pass island, secs. 14 & 23, *tp. 11 S., R. 17 E.*, S. E. dist. E. of River *swamp.*—Selected by State act of M'ch 2/49 & app'd May 6/52

(T. B. vol. 14 p. 36)

Grand island, sec. 36, tp. *10 S., R. 17 E.*, S. E. dist. E. of R. *Swamp.*—Sel'd by State act M'ch 2/49 & app'd May 6/52
(T. B. vol. 14 pp. 36 & 108)

Secs. 29, 31, 32 & 33 *tp. 10 S. R. 18 E.* S. E. dist. E. of R.
" *1 tp. 11 S. R. 17 E.* } S. E. dist. E. of R.
" 5 & 6 tp. *11 S. R. 18 E.* }

All swamp—Selected by State act M'ch 2/49 & app'd May 6/52
No areas given in La. plat of July 31/46

Note in La. plat of Grand island.—See plat of Grand I'd in *Miss. Plat Book* 21, tps. 10 & 11 S. rgs. 14 & 15 W.

La. 7 Plat Book 74
Tps. 10 & 11 S.
Rgs. 17 & 18 E.
S. E. dist. E. of R.

1368 *Mississippi.*

Greenwood Island.—Lots 4 & 5 sec. 17 tp. 8 S. R. 5 W.
" 1 & 2 " 18 " 8 S. " 5 W.
Purchased August 2 / 18 for use of medical dept. of army,—ret'd Dec. 18 / 90 for disposal—act July 5, 1884.

Lot 4	sec. 17	C. E.	45322	July 30 / 02	(6.34 acres)
" 5	" 17	"	45323	"	(2.30 ")
" 1	" 18	"	45324	"	(46.28 ")
" 2	" 18	"	45325	"	(28.00 ")

A. U. Jackson entries & to D. W. B. Oct. 3 / 03

DEER ISLAND.—Tract book shows Deer island in tp. 7 S. R. 9 W. & tp. 8 S. rgs. 8 & 9 W. No disposal shown except part appears to be covered by private claims of heirs of J. B. Baudreaux

SHIP ISLAND.—T. B. shows no disposal of Ship island
Tp. 9 S. rgs. 9 & 10 W.
" 10 S. rgs. 10 W.

1369 *Mississippi Continued.*

ST. JOSEPH ISLAND.—Tp. 10 S. R. 15 W. not shown on T. B. Land appears to be all covered by swamp selections & private claims.

Petit Bois Blanc Island.—
Secs. 35 & 36 tp. 9 S. R. 5 W.
" 1, 2 & 3 tp. 10 S. R. 5 W.
(See also secs. 29 & 32 tp. 9 S. R. 3 W. *Alabama*)
Placed under control Interior Dept. by ex. order of Oct. 25, 1895, except certain portions needed for light house purposes for disposal under act July 5 / 84
11190 " E." See " E." [W.]* to Sec'y Jan'y 8 / 96
1896

Fr'l sec. 5 tp. 10 S. R. 5 W. reserved for light house purposes by ex. order Sept. 3 / 00

1370 *Mississippi Continued.*

Round Island.—Same action as above
Tps. 8 & 9 S. R. 6 W.

1884
106795 States

Horn Island.—Sec. 31 tp. 9 S. R. 5 W.
Same action as above

[* Letter enclosed in brackets erased in copy.]

(Endorsed:) State of Louisiana *vs.* State of Mississippi. Exhibit Louisiana No. 3. Offered by State of Louisiana Aug. 26, 1904. Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

(Here follow 3 maps marked pp. 1371, 1373 & 1375 endorsed as follows:)

1372

(Endorsed.)

DIAGRAM No. 1.
Offered by State of Louisiana April 5, 1904.
Frank H. Mortimer, commissioner.
Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1374

(Endorsed.)

DIAGRAM No. 3.
Offered by State of Louisiana April 5, 1904
Frank H. Mortimer, commissioner.
Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

1376

(Endorsed.)

DIAGRAM No. 5.
Offered by State of Louisiana April 5, 1904.
Frank H. Mortimer, commissioner.
Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.



FOLD OUT IS TOO LARGE TO BE FILMED

1377 In the Supreme Court of the United States, October Term, 1904.

STATE OF LOUISIANA *versus* STATE OF MISSISSIPPI. } Original Bill Number 11.

I, Frank Hastings Mortimer, commissioner, appointed by the honorable the Supreme Court of the United States in the above entitled and numbered proceeding, do hereby certify that the accompanying four (4) volumes, each identified by my signature on the first and last pages thereof, and paged respectively,

Vol. 1, from p.	1	to p.	484,	inclusive,
Vol. 2, " "	485	"	921,	"
Vol. 3 " "	922	"	1177,	"
Vol. IV " "	1178	"	1477,	"

contain the testimony taken before me in behalf of the State of Louisiana in said proceeding on the several days therein stated:—part of said testimony, as contained in vol. # 4 from pages # 1294 to # 1477, inclusive, having been taken before the Honorable W. D. Bullard, also commissioner in this proceeding, acting in my stead, as per agreement between the parties of record.

I further certify that the several maps offered by the State of Louisiana in connection with said testimony, and enumerated and set out therein, each identified by the commissioner before whom the same was offered, are transmitted herewith; said maps being assembled in atlas form, under my supervision, in obedience to the order of the said Supreme Court heretofore rendered in said proceeding, and numbered as follows, to wit:—

Nos. 6, 7, 8, & 8 A, 9 & 9 A, 10 & 10 A, 11 & 11 A, 12, 13 & 13 A, 14 & 14 A, 15, 16, 17, 18, 19 20 & 20 A, (21—it not having been possible to photograph map # 21 it will be produced before the court in the original from the Library of Congress:) 22, (23—same as to No. 21) 24, 25, (in four sections), 26, (in 4 sections), 27, (in 6 sections), 28, (in 2 sections), 29, 30 (in 6 sections), 31, 32, 33, 34 & 34 A, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, & 57 A, 58 & 58 A, 59, 60 & 60 A, 61 & 61 A, 62, 63, 64, 65, 66 & 66 A.

I further certify that the several documents offered by the State of Louisiana in connection with said testimony taken in its behalf, and enumerated and set out therein, each identified by the commissioner before whom the same was offered, are transmitted herewith, said documents being numbered respectively, as follows:

Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, (there being none offered bearing the No. 37) 38, 39, 40, 41, 42, 43, 44, 45, 46, 47

48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104 & 105.

1378 I further certify that the exhibits marked "Louisiana 1, Louisiana 2, and Louisiana 3," offered by the State of Louisiana in connection with said testimony taken in its behalf, as set forth therein, each identified by the commissioner before whom the same was offered are transmitted herewith.

I further certify that the offerings marked "Diagram No. 1, Diagram No. 3, and Diagram No. 5," made by the State of Louisiana in connection with said testimony taken in its behalf, as set forth therein, are transmitted herewith.

I further certify that the offering marked "Diagram P," offered by the State of Louisiana in connection with the testimony of Major B. M. Harrod, and attached thereto at folio # 11 of vol. # 1 of said testimony, is transmitted herewith.

I further certify that I do not transmit herewith exhibits marked A, B, C, D, E, F, G, H, I, J, K, L, M, and Z, referred to in the testimony herewith forwarded, for the reason that I am informed that the originals of said exhibits are now in the possession of the clerk of this honorable court in Washington D. C., certified copies thereof being used in the proceedings before me.

In testimony whereof, I have signed these presents, at the city of New Orleans, State of Louisiana on this the thirty first day of January, A. D. 1905.

FRANK HASTINGS MORTIMER,
Commissioner.

(Endorsed:) Supreme Court of the United States, October term 1904. Original bill No. 11. State of Louisiana *vs.* State of Mississippi. Certificate of commissioner transmitting testimony, & offerings in connection therewith, taken in behalf of State of Louisiana. Frank Hastings Mortimer, commissioner.

1379 And on the same day, to wit, on the 13th day of March, A. D. 1905, the evidence for the defendant was filed in the words and figures following, viz:

1380

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI.

United States Supreme Court.

Vol. 1, p. 1 to p. 303, incl.

Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, Clerk.

1381 In the Supreme Court of the United States.

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI.

Vol. 1, page 1 to 303, incl.

1382 In the Supreme Court of the United States.

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI

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1384 THE STATE OF LOUISIANA }
vs. } No. 1.
THE STATE OF MISSISSIPPI. }

1385 In the Supreme Court of the United States, October Term, 1903.

THE STATE OF MISSISSIPPI }
vs. } Original Bill, No. 11.
THE STATE OF LOUISIANA. }

In accordance with the agreement executed between the attorney general of Mississippi, and the attorney general of Louisiana on file in this case stipulating how the testimony should be taken on this the 1st day of June 1904, at the yacht club house in the city of Biloxi Mississippi, pursuant to notice duly given and acknowledged, Hon. William D. Bullard, commissioner appointed by the Supreme Court of the United States to take the testimony in this case on the part of the State of Mississippi, together with Hon. William Williams, attorney general of the State of Mississippi; Hon. Monroe McClurg, appointed by the governor of the State to assist said attorney general, and the Hon. Walter Guion, attorney general for the State of Louisiana, and Hon. F. C. Zacharie, and Hon. John Dymond Jr., in this cause associated as counsel with the attorney general of Louisiana, met and proceeded to take the testimony on behalf of the State of Mississippi.

The notice given by the attorney general of the State of Mississippi is as follows:—

"JACKSON, MISSISSIPPI, May 19th, 1904.

Hon. Walter Guion, attorney general, New Orleans, La.

DEAR SIR: In compliance with the agreement entered into by and between Louisiana and Mississippi in respect to the taking of evidence in the case of Louisiana *versus* Mississippi I beg leave to notify you that Mississippi will begin taking her evidence in the case of Louisiana *vs.* Mississippi before the Hon. William D. Bullard, commissioner appointed for that purpose at the hour of 11 o'clock a. m. on Wednesday, June 1st, 1904, at the yacht club in the city of Biloxi Mississippi, and will continue to take evidence at the said place until and including June 25th, 1904. After which
1386 time we will adjourn to the city of Jackson and take evidence there in the capitol building of the State of Mississippi until and including July 16th, 1904, when we will return to Biloxi and continue to take evidence there until we shall have finished, subject to agreements heretofore made and to be made in this matter by counsel for the States of Louisiana and Mississippi.

Yours truly, WILLIAM WILLIAMS,
Attorney General for the State of Mississippi.

The answer to the above notice being as follows :—

"NEW ORLEANS, LA., May 21st, 1904.

Hon. William Williams, attorney general of Mississippi, Jackson, Mississippi.

DEAR SIR: I am in receipt of your letter of the 19th instant, in which you notify me that on Wednesday June 1st, 1904, at 11 o'clock a. m., at the yacht club in the city of Biloxi, Mississippi you will begin taking the evidence for the State of Mississippi in the boundary suit between Louisiana and Mississippi.

Under the agreement entered into with your associate ex-Attorney General McClurg it was understood that Louisiana's case was not closed at the time we finished the taking of certain evidence here, and that Louisiana would have the right to offer certain evidence during this month on giving you notice. I therefore take this means of notifying you that on Monday 30th of May, 1904 at 11 o'clock a. m. the State of Louisiana will offer the additional evidence which it proposed to introduce before Mr. Frank H. Mortimer, Louisiana's commissioner, at his office in the custom house, New Orleans. This will give you ample time to make your arrangements to go over to Biloxi on the 31st of May, so as to prepare for the taking of evidence on the following day, June 1st. If, however, another day prior to the 1st June 1904 will be more convenient to you I beg to state that counsel for Louisiana hold themselves in readiness to take the evidence on any other day that will best suit your convenience.

Yours truly,

WALTER GUION,
Attorney General of Louisiana.

Thereupon the commissioner on the part of Mississippi Hon. William D. Bullard appointed Frank M. Peyton, official stenographer on the part of Mississippi in this cause, and he was thereupon duly sworn as such.

AGREEMENT.—It is now here agreed in the presence of the commissioner by and between the two States represented by their
1387 respective counsel that it shall be unnecessary for the witnesses to sign their depositions taken by the stenographer on behalf of either State. Said depositions are to be typewritten in triplicate. The original copy to be filed with the commissioner, and a copy to be given to counsel for either State.

By Gen. MCCLURG: In order that the commissioner appointed by the Supreme Court of the United States to take testimony on the part of the State of Mississippi may understand at the outset the general drift of our evidence, I desire to state here: the contention of the State of Louisiana as set forth in her original bill of complaint is that the boundary line dividing these two States in the waters of the gulf of Mexico is "a line beginning at the most southern junc-

tion of the channel of the east branch of Pearl river with Lake Borgne; thence eastward following the deep water channel to the north of Half Moon island; through the Mississippi Sound channel and Cat Island pass, north east of Isle à Pitre into the gulf of Mexico."

This claim of Louisiana to this line, as stated in her bill, is based upon the acts of Congress, one approved April 6th, 1812, admitting that State into the American Union and fixing her boundary about the controverted point as follows. "Thence down said River Iberville, and from thence along the middle of said river to Lakes Maurepas and Pontchartrain to the gulf of Mexico; thence upon said Gulf to the place of beginning. (Sabine river)., including all islands within three leagues of the coast." The other act approved April 14th, 1812, under which we state by moving this boundary line eastward and northward, saying that instead of passing through the lakes mentioned "to the gulf of Mexico," it should run "along the middle of the Iberville and of the River Amite to Lakes Maurepas and Pontchartrain to the mouth of Pearl river; thence by the eastern branch of Pearl river to the 31st, degree of north latitude; thence on the said degree of latitude to the Mississippi river."

To sustain her contention as here stated Louisiana has introduced much testimony and closed her evidence in chief.

On the part of Mississippi, it is denied that there is anything in the acts of Congress fixing the boundaries of Louisiana at the "deep water channel," nor is there any thing in law or in fact to uphold such contention; but by way of cross bill it is contended by Mississippi that the act of Congress of March 1st, 1817, admitting her into the Union leaves no doubt as to the boundary in controversy when it says; "Thence due south" between Mississippi and Alabama to the gulf of Mexico; thence westwardly, including all islands within six leagues of the shore to the most southerly junction of Pearl river with Lake Borgne; thence up said river to the 31st degree of north latitude."

So, you will observe, Mr. Commissioner, that the testimony which we now begin to take on the part of Mississippi will be directed to the establishment of the line designated in our cross bill which
1388 of course will tend to disprove the correctness of the contention on the part of Louisiana.

We begin by offering certain documents being copies of treaties between England, France, Spain and the United States bearing upon the issues here made and certain acts of the territorial and State legislatures of the litigant States, and then we propose to offer testimony to establish certain facts that aid our construction of the laws fixing boundary lines in the waters of the Gulf in support of our contention generally.

Thereupon on the part of the State of Mississippi the following documentary evidence was offered in evidence. The production of the books from which the extracts introduced were taken is waived by the counsel for the State of Louisiana and a copy of the original

filed by the commissioner in each instance is furnished to the counsel for the State of Louisiana, to-wit:—

Mississippi Document No. 1, entitled A definitive treaty of friendship and peace between His Brittan-ic Majesty and Most Christian King, and the King of Spain. Concluded at Paris on the 10th day of February 1763, to which the King of Portugal acceded on the same day.

Mississippi Document No. 2, entitled A definitive treaty of peace and friendship between His Brittan-ic Majesty, and the Most Catholic King. Signed at Versailles on the 3rd, day of September 1783 as published by authority.

Mississippi Document No. 3, being chapter 22, volume 2 of the United States Statutes at Large, entitled An act for the disposal of certain tracts of land in the Mississippi territory claimed under Spanish grants, reported by land commissioner as ante-dated, and to confirm the claims of Abraham Ellis and Daniel Harregal.

Mississippi Document No. 4, entitled Sections No. 1 and No. 2 of chapter 100 and volume 3, of the United States Statutes at Large. An act for adjusting the claims to lands and establishing land offices in the districts east of the island of New Orleans.

Mississippi Document No. 5, being An act concerning an act to enable the President of the United States under certain contingencies to take possession of the country lying on the east of the River Perdido and south of the State of Georgia and the Mississippi territory and for other purposes, approved January 15th 1811, page 471, volume 2 of the United States Statutes at Large.

Mississippi Document No. 6, entitled An act to enable the President of the United States under certain contingencies to take possession of that country lying east of the River Perdido and south of the State of Georgia and the Mississippi territory and for
1389 other purposes. Approved January 15th, 1811. Page 471, volume 2 of the United States Statutes at Large.

Mississippi Document No. 7. Resolutions of the Congress of the United States. Approved January 15th 1811, relative to the occupation of the Floridas by the United States of America. Page 47, volume 2. United States Statutes at large.

Mississippi Document No. 8, being the 1st, paragraph of section 1, chapter 50, volume 2, of the United States Statutes at Large. An act for the admission of the State of Louisiana into the Union and to extend the laws of the United States to the said State.

Mississippi Document No. 9, being chapter 57, volume 2, of the United States Statutes at Large. An act to enlarge the limits of the State of Louisiana, approved April 14th, 1812.

Mississippi Document No. 10, being chapter 84, volume 2 of the United States Statutes at Large. An act to enlarge the boundaries of the Mississippi Territory, approved May 14th 1812.

Mississippi Document No. 11. An act authorizing the President of the United States to take possession of the tract of country lying south of the Mississippi Territory, west of the River Perdido. Ap-

proved February 12th, 1813. Page 472, volume 3 of the United States Statutes at Large.

Mississippi Document No. 12, sections No. 1, and No. 2, chapter 23, volume 3 of the United States Statutes at Large. An act to enable the people of the western part of the Mississippi Territory to form a constitution and State government, and for the admission of such into the Union, on an equal footing with the original States.

Mississippi Document No. 13, being resolutions for the admission of the State of Mississippi into the Union, approved December 10th 1817, page 473, volume No. 2 of the United States Statutes at Large.

Mississippi Document No. 14, being a copy of one of the Spanish grants annulled by a treaty between the United States and Spain on February — 1819.

Mississippi Document No. 15, being article No. 2 of the treaty of 1819 between the United States and Spain, signed at Washington on the 27th, day of February 1819. John Quincy Adams. Louis De Onis.

Mississippi Document No. 16, being sections No. 1 and
1390 No. 2, chapter 39, volume No. 2, of the United States Statutes at Large. An act for carrying into execution a treaty between the United States and Spain, concluded at Washington on the 22nd. day of February 1819. Approved March 3rd, 1821.

Mississippi Document No. 17 being an opinion of Chief Justice Marshal, in the case of Foster & Elam *vs.* Neilson, 2nd Peters, page —.

Mississippi Document No. 18, being the boundaries of Hancock county, as established December 14th, 1812, taken from section 44 of the Code of 1880 of Mississippi. Section 368 of the Code of 1892 of Mississippi.

Mississippi Document No. 19 being the boundaries of Jackson county Mississippi as established December 14th, 1812, taken from section 50 of the Code of 1880 of Mississippi, and section 37 of the Code of 1892 of Mississippi.

Mississippi Document No. 20, being the boundaries of Harrison county, Mississippi, established February 5th, 1841. Taken from section 45 of the Code of 1880 of Mississippi and section 396 of the Code of 1892 of Mississippi.

Mississippi Document No. 21, being chapter 52 of the Laws of Mississippi of 1842. An act to extend the jurisdiction of the county of Harrison, approved February 22nd, A. D. 1842.

Mississippi Document No. 22, being article No. 2, section 2, chapter No. 2, of the Revised Code of 1857 of Mississippi, respecting the boundaries of Jackson, Harrison and Hancock counties.

The commission here adjourned until nine o'clock tomorrow morning, which is June 2nd, 1904.

Upon reassembling of the commission this morning Mr. Bullard, commissioner on the part of Mississippi appointed Richard Pollard, Esq., as special bailiff to wait upon him and to execute his

orders during the taking of the testimony on the part of Mississippi, and Mr. Pollard was accordingly sworn and entered upon the discharge of his duties.

Mr. B. R. CLEMENTS being sworn as a witness on the part of the State of Mississippi testified as follows :—

Q. Mr. Clements, how old are you?
A. 74.
Q. Where do you reside?
A. I live in Biloxi.
Q. How long have you resided in Biloxi?
A. Since 1851.
Q. What has been your occupation generally since 1851?
A. Boatman running yachts and steamers, hoist boats and pilots etc.

Q. Where?

1391 A. All the way from Lake Pontchartrain, Mississippi sound and Louisiana marsh. Mississippi sound here and Mobile bay, as far as Pensacola.

Q. This is a controversy Mr. Clemens between the States of Louisiana and Mississippi in which it is claimed by Louisiana that the line dividing these two States is the deep water channel which passes out of the mouth of Pearl river through the Mississippi sound as far as Cat island and into the Gulf, and in which Mississippi claims that the real boundary between the States is a line drawn at six leagues from every point of the Mississippi shore between Pearl river and the Alabama line. Are you familiar with the territory that I have indicated to you and that is in dispute between these two States?

A. Yes, sir, I have been all over it.

Q. I understand you to say that since 1851 that you have been a boatman on these waters, and that you are familiar with the territory in dispute between these two States. Am I correct in that?

A. Yes sir.

Q. I will be obliged to you Captain to tell us if you can of your own personal knowledge what has been understood by you, and so far as you know other boatmen to be the dividing line between these two States since 1851?

A. Well sir it has always been my impression and all the boatmen's impression that Pearl river was the dividing line between Louisiana and Mississippi running due south.

Q. Running due south how far?

A. About 18 or 20 miles.

Q. You say that has been the impression of yourself and other boatmen so far as you know?

A. Yes sir, I never knew anything to the contrary.

Q. Now I will ask you to please state how you and other boatmen so far as your knowledge extends have acted upon that impression as to the boundary line between these two States?

A. Well sir we have made no distinction at all. We have fished all over there.

Q. All over where?

A. All over the marsh.

Q. How far south of the Mississippi shore?

A. Well say from where the oysters commence by Grand pass to Isle à Pitre and all of these places clean down to the Mississippi river.

Q. You have fished indiscriminately?

A. Yes sir.

Q. Was there ever any objection to your doing that?

A. Not any.

Q. The bill of complaint in this cause filed by the State of Louisiana against the State of Mississippi alleges that there is a deep water channel leading out of the mouth of Pearl river, as I have before mentioned, which is the dividing line between these two States. I want to ask you whether that channel has ever been recognized by you and all of the fishermen and boatmen on these waters so far as your knowledge extends as the dividing line between these two States?

A. No sir, I never heard anything of that kind.

Q. The answer of the State of Mississippi and her cross bill is to the effect that the dividing line between these two States is eighteen miles south of the shore at every point from Pearl river to the Alabama line. I wish you would please state how this line has been regarded by you during the last 50 or 53 years, and the other boatmen and fishermen in these waters, with reference to ownership, possession, and jurisdiction of the State of Mississippi to this eighteen mile limit?

A. Well sir I don't know how to explain that. We have always considered that Pearl river was the boundary line of the two States. As for the deep water channel, I don't know what you call the deep water channel. From Pearl river it runs into St. Joseph's, that runs east and west, and you have to go around there to get into Cat Island channel. That runs east and west. We always considered
1392 that the boundary line was due south from Pearl river.

Q. For how far?

A. About 20 miles.

Q. Did you always regard this channel as in the State of Mississippi?

A. Yes sir. Most undoubtedly, because there were oysters all around St. Joseph's, and Half Moon, and Cat island, and from there to the marsh and Grand pass.

Q. How far is it south of the Mississippi shore to Malheureux point?

A. Well, I could not say that now. It has been so long since I have been there that I could not say exactly. They change the names of those places so often down there. I could not say the distance exactly.

Q. It is less than 18 miles is it not?

A. Yes sir, I would not think that it was more than 18 miles any way.

Q. Do you know where Nine Mile bayou is?

A. Yes sir.

Q. The map shows that that is east of Malheureux point. Is that correct?

A. Yes sir.

Q. How wide is Nine Mile bayou?

A. Well the last time I was there I do not think it was over a quarter of a mile.

Q. And to the east of Nine Mile bayou is Three Mile bayou as shown by the map. Is that correct?

A. Yes sir.

Q. And then we have Johnson bayou. Do you know where that is?

A. Yes sir, I have heard of it, but every man that comes along there gives it a different name.

Q. And to the east of that we have Turkey bayou. Do you know where that is?

A. Yes sir.

Q. And to the east of Turkey bayou is Grand pass. Is that correct?

A. Yes sir.

Q. Grand pass as we understand it separates Isle à Pitre from the string of islands west of it?

A. Yes sir.

Q. You know where Creole gap is do you not?

A. Yes sir.

Q. It has been testified in this case that Creole gap is in part an artificial water course that cuts Isle à Pitre in two. Do you know whether that is true or not?

A. Well these storms had a great effect on these bayous. One storm would come along and fill it up, and next one would wash it out. For instance there is Grand pass. When I went there in the 50's it was not a quarter of a mile wide. Now it is two and a half miles wide. There were good oysters in there then but they are all washed away now. The reefs inside of it are washed up.

Q. You mean the natural reefs of oysters?

A. Yes sir, and in proportion all along through the marsh there. There are places that have been washed away there and others filled up, but from the chart there I recognize it as the same it was fifty years ago with the exception of some places that are washed away.

Q. I will ask you to please examine this chart exhibited with the cross bill of Mississippi in this cause and mentioned as Exhibit A to the testimony of Mr. W. K. M. Ducate in his cross examination by counsel for Mississippi as a witness introduced by the State of Louisiana and say whether the general contour of this chart or map correctly shows the Mississippi sound south of the Mississippi shore

and what is termed the Louisiana marshes within 18 miles of the Mississippi shore. Tell us whether this map is correct or substantially correct in showing land and water and the general surface and contour of the territory disputed in this cause?

A. Yes sir, that looks to me that it is about the same as when I went through it.

Q. Do you mean to say when you first went through it?

A. Yes sir.

Q. When did you first go through it Captain?

1393 A. In about 1851 or maybe before that.

Q. Do I understand you to mean that this map discloses the surface of water and land up there now about the same as it was fifty years ago?

A. Yes sir, it looks the same to me with the exception of some places as I stated before that are made wider and others narrower from the blows.

Q. This map indicates that boats of light draft may go through Nine Mile bayou into False Mouth bay, down into Treasure bay and Lake of the Mound, eighteen miles south of the Mississippi shore. Please tell me whether you could do that fifty years ago?

A. Yes sir, you could do that with a boat not drawing more than four feet.

Q. This map also indicates that you can pass through Three Mile bayou into Three Mile bay, passing between Raccoon island and little Raccoon island into False Mouth bay and around Mud island into Indian Mound bay and on down into South West pass about 18 miles south of the Mississippi shore?

A. Yes sir.

Q. Could you do that fifty years ago?

A. Yes sir, I think you could. All through there.

Q. And it also indicates that through Jones bayou you could pass down through West Karako bay to Indian Mound bay and on by water eighteen miles south. Could that be done when you first knew this country fifty years ago?

A. Yes sir, it could be done there then.

Q. I ask you this same thing with reference to Turkey bayou. Could you go through that way down as far south as 18 miles fifty years ago?

A. I have seen boats go through that way. I have not been through there, but I have seen boats go through there.

Q. Tell us what you know about Grand pass in the last fifty years please sir?

A. Well, Grand pass, as I stated a while ago, I don't think that it was over a quarter of a mile wide where it is two and a half miles wide now.

Q. What does that connect with?

A. On the west it connects with the other Louisiana shore; Louisiana marsh, and on the east the same thing down towards Isle à Pitre.

Q. What is on the east side of it?
A. Isle à Pitre.
Q. What is to the north of it?
A. Water.
Q. What water?
A. Lake Borgne.
Q. North of Grand pass?
A. Yes sir.
Q. It is Mississippi sound, is it not?
A. You do not get to the Mississippi sound until you get to St. Josephs island. The other part of it is Lake Borgne.
Q. What divides Mississippi sound from Lake Borgne. St. Josephs island?
A. Yes sir, that is the way that I have always understood it.
Q. Is not St. Josephs island a great distance to the west of Grand pass?
A. To the north of it.
Q. To the north west?
A. Yes sir.
Q. And due north of Grand pass is what?
A. North of Grand pass?
Q. Yes. What water is north of Grand pass. Is it the Mississippi sound?
A. Yes sir, and Lake Borgne comes as far as St. Josephs.
Q. And east of St. Josephs is the Mississippi sound?
A. Yes sir.
Q. What is this to the southeast of Grand pass? What water?
A. Well that is the Mississippi sound too.
Q. Mr. Clemens I wish you would tell us what right you and other boatmen have been exercising in what you call the Louisiana marshes for the last fifty years?
1394 A. What right? Well, sir, at that time we always got license for our boats that gave them the privilege of fishing
Q. Where did you get your license?
A. In Mobile and in New Orleans.
Q. What did you do after you got your license?
A. Fished oysters.
Q. Where did you fish oysters?
A. All through the Louisiana marsh.
Q. Have you any personal knowledge of any crimes committed or supposed to have been committed in what we term the Louisiana marshes and within eighteen miles of the Mississippi shore of which the Mississippi authorities took jurisdiction. If so state what they were?
A. No sir I never heard of any crimes committed except of one case of a boy getting drowned. Kennedy I believe was the name.
Q. When was this?
A. It must have been 12 or 14 years ago.
Q. Where was he drowned?

A. I could not say. I heard at the time, but I don't remember.
Q. Did you see the body?
A. I did.
Q. Where was the body when you saw it?
A. It was landed in front of the cemetery here.
Q. In Biloxi?
A. Yes sir.
Q. Was an inquest held over this body?
A. Yes sir, I was on the jury.
Q. You were on the jury of inquest?
A. Yes sir.
Q. Was violence charged by anybody?
A. Well yes sir, there was some talk about it but there was nothing proved.
Q. Who was charged if you remember?
A. Well, it was his brothers. Two brothers I think.
Q. As a member of this jury of inquest can you tell us where the body was found?
A. I heard, but I don't remember where it was.
Q. Do you know whether it was not somewhere below Isle à Pitre?
A. That is what I heard, yes sir.
Q. Is that what was proven before your jury?
A. I don't remember that how it was proven.
Q. Please refresh your memory and say whether or not this body was picked up about Jack Williams bay?
A. That is what I heard. That the body was picked up there. It was not drowned there. He did not fall off the vessel there. That is what the testimony was before the jury. But afterwards they found the body. I don't know how long afterwards.
Q. Who was the officer that held the inquest?
A. I don't remember that, but Dr. Peeley was the physician.
Q. Was it an officer of Harrison county, Mississippi?
A. Yes sir.
Q. Where did the doctor of whom you speak reside? Where did he live?
A. In Biloxi.
Q. In Biloxi, Mississippi?
A. Yes sir, Dr. Peeley.
Q. Were other witnesses introduced before the jury on which you sat in inquest upon the body of Kennedy that testified about the case?
A. There were no witnesses that I know of except the two brothers.
Q. Do you know what was developed before that inquiry as to where the boy Kennedy was drowned or murdered as the case might have been?
A. No sir, all of the report that was here was that in pushing a pole he fell overboard.
Q. At what point, do you remember, that the proof indicated?

A. I don't remember that. It was stated at that time.

Mr. McCLURG: Counsel for the State of Mississippi announces that he has information to the effect that the record in this cause will
1395 be produced, but up to this time he has been unable to find it.

By Gen. GUION: Counsel for the State of Louisiana notes an objection to the evidence of Mr. Clemens as well as to all other evidence of the same character tending to establish what took place at the inquest held, unless the State of Mississippi shows that the record of the inquest as well as all of the testimony given at the inquest has been mislaid or lost and can not be produced.

Q. Captain Clemmens, again calling your attention to the map exhibited with Mississippi's answer and cross bill in this cause, I will ask you to especially note the red lines marked out of the mouth of Pearl river, thence following what is supposed to be the Louisiana main land around to a point 18 miles south of the Mississippi shore, thence eastwardly intending to indicate a line out 18 miles from the Mississippi shore all the way to the Alabama line. Looking at these red lines I want you to say to the court whether or not these red lines correctly indicate what has been your understanding, and the understanding of all others using and frequenting the territory within the reach of these red lines as being Mississippi territory or belonging to the State of Mississippi?

A. Yes sir, we have always considered it as such. All of them that I knew of at that time were fishing there. We always considered that Mississippi territory.

Q. That covers how many years?

A. Well since 1851.

Q. About 53 years then?

A. Yes sir, there abouts.

Q. Are we to understand from this statement made by you that for the last 53 years so far as your personal knowledge goes that this territory has been considered belonging to the State of Mississippi?

A. Yes sir.

Cross-examination.

By Gen. GUION:

Q. Mr. Clemens, I understood you to say that the inquest that was held here in Biloxi was held about ten or twelve years ago?

A. Yes sir, twelve or fourteen years ago, I think it is.

Q. On the body of a boy named Kennedy?

A. Yes sir.

Q. You have no recollection as I understand you of any witnesses having testified where the body had been found?

A. No sir, not with the exception of his brothers that were with him.

Q. The two brothers?

A. Yes sir.

Q. Are those two brothers where they can be reached by the process of the court?

A. Yes sir, they are here.

Q. You don't remember any facts given in evidence at the examination held by the coroner, or who-ever held the inquest as to the place where the body was drowned?

A. Well they stated at that time, but I don't remember where the body was found.

Q. And you don't remember where they stated?

A. No sir. I do not. The body was brought up on the beach at the cemetery and then carried up to the grave and there the coroner held the inquest at the grave. They found no marks of violence on him. Nothing but bruises.

Q. When did you first take out a license as a fisherman to fish oysters?

A. Well about the first boat that I had charge of was about in 1856. Previous to that I was a hand on a boat.

Q. Previous to 1856 you were simply an employee of others?

A. Yes sir.

Q. But in 1856 you began to gather oysters on your own account?

A. Yes sir.

1396 Q. And you got a license to fish oysters from whom?

A. From New Orleans and from Mobile.

Q. What person in New Orleans did you get it from?

A. From the custom house.

Q. From the custom house?

A. Yes sir.

Q. And from what person in Mobile did you get the license to fish oysters?

A. From the custom house.

Q. From the custom house?

A. Yes sir.

Q. Have you any of these licenses in your possession?

A. No sir, it did not say in that, "oysters and fishing license." It says coasting license and fisheries.

Q. Did you understand that this license gave you the authority to fish oysters?

A. Yes sir.

Q. Were you informed by any of the officials in the custom house that you had the authority to gather oysters under that license?

A. Yes sir, we always asked that. What did it consist of, the fisheries. "Well you can fish anything you please." "Oysters, fish, crabs or anything else."

Q. That was told you by whom. Do you remember?

A. The custom house officer that issued the license.

Q. You don't remember any of their names, do you?

A. No sir.

Q. Captain, do you think you could not find one of these licenses if you were to look among your papers?

A. No sir, because I owned three or four boats, and when you sell the boat you give the license with it.

Q. When was the last one that you took out?

A. The last one was at the commencement of the war. About 1862 was the last one that I took out.

Q. 1862. That is during the war?

A. Yes sir.

Q. Do you remember who was in charge of the office in New Orleans at that time?

A. No sir, I could not say.

Q. And it was by virtue of these licenses and the supposed right you had that you gathered oysters in what you called the Louisiana marshes?

A. Yes sir.

Q. Did you apply to any authorities in Louisiana for this privilege?

A. Well you could go with this license any where. Alabama, Mississippi or Louisiana. It did not make any distinction where we were to catch oysters. We brought oysters to New Orleans and brought oysters to Mobile and brought oysters here even.

Q. Do you say that you got any authority from any person representing the State of Louisiana to fish oysters down in the Louisiana marshes?

A. I got the authority from the custom house.

Q. That was the United States office, was it not?

A. Yes sir.

Q. It was not an official holding the authority from the State of Louisiana?

A. No sir, I suppose not. It was at the custom house.

Q. I may be mistaken but I understood you to say just now that you and other fishermen had fished oysters down in what you call the Louisiana marshes as far back as 1851?

A. Yes sir.

Q. That you were then employed; in the employ of others?

A. Yes sir.

Q. And that you kept that up until when?

A. Until 1862.

Q. Until 1862?

A. Yes, sir.

Q. Well have you been fishing oysters since 1862?

A. No sir, not to sell.

Q. You mean to make a distinction then between the fishing of oysters for sale which you did from 1851 up until 1862, and fishing for oysters not for sale since 1862?

A. Yes sir, I did in this way. Previous to that we used to
1397 carry our oysters to market.

Q. Previous to what?

A. Previous to this time.
Q. You used to carry your oysters to market?
A. Yes sir.
Q. And since 1862?
A. Since 1862 I have been planting oysters here on Deer island.
Q. Planting oysters?
A. Yes sir.
Q. Then as I understand you have not been fishing oysters in the Louisiana marshes since 1862?
A. No sir.
Q. You only fished down there from 1851 up until 1862?
A. Yes sir, because after that we used to fish around Mobile.
Q. Do you know much about this territory or country of what is called the Louisiana marshes since this time. Have you visited it since this time?
A. I have been there but not very often. I think I have been there three or four times since.
Q. Only three or four times?
A. Yes sir.
Q. That is since 1862?
A. Yes sir.
Q. Now I understood you to say that you fished down in these Louisiana marshes believing that Mississippi went down eighteen miles from Pearl river. Eighteen or twenty miles?
A. Yes sir.
Q. What reason had you at that time, having a license from the United States Government which authorized you as you *to* say to fish oysters in Louisiana and Mississippi and Alabama to consider where you were fishing?
A. Well we made no special point of where we were going. We just went according to the water and the best places to fish.
Q. You had the authority as I understand it from the United States Government to fish in Mississippi and Louisiana and Alabama?
A. Ye- sir, it did not mention that in the license though.
Q. But you knew that the license that you got from the custom house authorized and permitted you to fish oysters in these three States?
A. Yes sir.
Q. What reason had you with this license in your possession to consider where you were, whether in Mississippi or Louisiana or Alabama?
A. We did not consider it at all. We just went where the oysters were the thickest.
Q. You went where you found the oysters?
A. Yes sir.
Q. Regardless of where they were?
A. Yes sir.

Q. Well what basis of information had you for fixing upon the 18 or 20 miles limit from Pearl river?

A. Well I can not exactly explain that, but all of the boatmen understood that the boundary line was Pearl river and eighteen miles due south of Pearl river.

Q. 18 miles due south?

A. Yes sir.

Q. Then if you would see upon the map that has been shown to you that the line is not due south of Pearl river, it would not be the line that you supposed was the line that governed you and other fishermen in finding the line between Louisiana and Mississippi would you?

A. Well Judge, that way we haphazard that. We say Pearl river runs due south. It might run south east, or east south east or some where around there. We never mentioned anything of that kind, but the supposition was among the boatmen that this was the boundary line between the two States.

Q. And that was the prevailing idea among the fishermen, you say?

A. Yes sir.

Q. That the line was due south 18 miles from the mouth of Pearl river?

A. Yes sir.

Q. Well now could you tell me what point you considered
1398 was 18 miles due south of Pearl river?

A. Well no, I could not say exactly now. Well from Pearl river that would go way into the marsh.

Q. I understand that, but what point in your mind could you fix upon as being the point which was 18 miles due south of Pearl river. I am now speaking without reference to your examining any maps. I am trying to test your memory.

A. Well due south from Pearl river. It ought to hit Three Mile bayou I think. Inside of Three Mile bayou.

Q. Do you consider Three Mile bayou about 18 miles?

A. No sir, inside of the marsh I say.

Q. You mean south of it?

A. Yes sir.

Q. How far is it to Nine Mile bayou from Three Mile bayou?

A. I could not say that now. It is a good distance though.

Q. Three Mile bayou is a good distance east of Nine Mile bayou?

A. Yes sir.

Q, Can you fix on some point due south of Pearl river. I don't want to go as far east as Three Mile bayou, but due south of Pearl river which is eighteen miles south of it?

A. No sir, I could not fix on any point and be sure of it.

Q. Did you ever fish as far down south as Drum bay?

A. Yes sir.

Q. Did you ever fish as far south as Live Oak bay?

A. Yes sir. No, I did not know it by that name then.

Q. Did you consider Drum bay and California bay in Mississippi or Louisiana?

A. Well we could not say Judge. We considered the whole business there in Mississippi at that time because we were never restrained from catching anything and nobody told us anything about it.

Q. No Louisiana authorities ever interfered with you did they?

A. No sir.

Q. No question was ever raised as to where you were?

A. No sir.

Q. Did I not understand you to say that you fished as far south as the Mississippi river?

A. Yes sir.

Q. Do you mean the mouth of the Mississippi river?

A. No sir.

Q. How do you mean as far south as the Mississippi river?

A. Right back on the quarantine station. That is a little north of Breton island.

Q. I understood you to say, Mr. Clemmens, in your testimony in chief that in fishing oysters you and others fished oysters as far down as the Mississippi river. Will you please indicate some point on the map before you marked "Tunison's new railroad, post-office, and distance map of Arkansas, Mississippi and Louisiana," which has already been offered in evidence for the State of Louisiana and state what point you have reference to as being one as far as the Mississippi river to which you went in fishing oysters?

A. I went as far as Eloi bay, Point Chico and Lake La Fortuna.

Q. Now I will ask you also if you remember having fished in what is called Junius pass?

A. Yes sir, I have but I don't remember the distance now.

Q. Well at the time you were gathering oysters in these waters had you any mind or idea of not going upon Louisiana or Mississippi either?

A. No sir, we considered it, the whole of what you call the Louisiana marsh. We considered all of that Mississippi marsh.

Q. Even as far south as Drum bay?

A. Yes sir, the boatmen considered it that way.

Q. Did you consider Point Chico as being in Mississippi?

A. Yes sir, we never made any inquiries about the boundaries or any thing that way you know.

Q. You were not concerned in boundaries at that time were you?

A. No sir, or nobody else.

Q. Was this matter discussed much between you and others at that time as to where this boundary line was between Louisiana and Mississippi. Were these boundary lines discussed between you
1399 and others connected in fishing oysters.

A. No sir, not unless the question came up. Do you mean since the question came up?

Q. No, at the time you were fishing oysters?

A. No sir, we never thought of such a thing.

Q. What depth of water at the time you were fishing oysters, down there in 1851 up to 1856 was there in Nine Mile bayou?

A. Well sir that portion of Nine Mile bayou. Five feet, six feet, and sometimes as high as seven feet. It is all according to the tides.

Q. After you get out of the Nine Mile bayou going south into the marsh proper, what depth of water was this?

A. Different depths. From four to five feet and some places three feet. I have gotten aground many a time drawing two and a half feet going through there. It is all according to the tides.

Q. How about the depth of water in Three Mile bayou? Was this more or less than this in Nine Mile bayou?

A. I think that it was about the same.

Q. And the marsh south of Three Mile bayou. Would this correspond with the marsh south of Nine Mile bayou?

A. Yes sir, very near it. As I mentioned during the storms some of the places would fill up and others get deeper, and *vice versa*.

Q. You did not then as a resident of Biloxi and a citizen and resident of Mississippi fish in what is called the Louisiana marshes at the point where you did in the belief that you were simply fishing in Mississippi waters did you?

A. Well not exactly.

Q. Did you understand that you had the right to fish whether it was in Louisiana or Mississippi?

A. Yes sir.

Q. In any part of this marsh?

A. Yes sir. We had the right according to our license.

Q. Do you know why this country down there was called the Louisiana marshes?

A. No sir.

Q. You never heard?

A. No sir. Why it was called the Louisiana marshes?

Q. Yes sir?

A. No sir.

Q. Did you ever enquire?

A. No sir.

Q. I understood the question or rather one of the questions put to you just now by counsel for Mississippi as suggesting to you and possibly your having answered it with the idea that you were answering the suggestion that Mississippi had in some way in her sovereign capacity claimed jurisdiction over some part of this Louisiana marsh. Do you know of any instance where Mississippi as a State has claimed jurisdiction over any of the Louisiana marshes?

A. Well not that I know of except since this talk has come up over it. Since this boundary question has come up.

Q. How long ago has this been?

A. It has been now a couple of years has it not?

Q. I would prefer you to answer it yourself?

A. I do not keep track of these kind of things at all. Only what I see in the papers and what I hear about the boundary question.

Q. In what way has the State of Mississippi been assuming jurisdiction since the time that you speak of. Since the last two or three years that you mention?

A. They claimed it I suppose because they thought it belonged to them.

Q. In what way has she been exercising any jurisdiction over it?

A. I don't know that sir.

Q. Was there any part of this Louisiana marsh or what is called Louisiana marsh assessed in the State of Mississippi?

A. I could not say.

Q. Does the State of Mississippi or any of the counties of Jackson, Harrison or Hancock collect any taxes on any of the lands lying in what is called the Louisiana marshes?

A. I could not answer that.

Q. Don't you know that it is a fact as an old resident of Biloxi that there are no taxes collected in this county, Harrison
1400 county, on any lands south of Harrison county in what is called the Louisiana marshes?

A. I don't know anything at all about that sir.

Q. Mr. Clemens, at a point south of Pearl river where you say; or rather to which you say the boundary line of Mississippi extends in your opinion, or as you and others believe. Starting from that point going eastward to the Alabama line is there any channel leading across this marsh?

A. Well there is Cat Island pass. That is about the only channel south of Cat island.

Q. Cat Island pass is east of Isle à Pitre, is it not?

A. East of Isle à Pitre?

Q. Yes sir, is not Cat Island pass between Cat island and Isle à Pitre?

A. Yes sir.

Q. I am not speaking of the north east part of this territory. I am speaking of the extreme southwest corner. As I understood you to say, you and others thought and believed that the Mississippi line extended due south from the mouth of Pearl river 18 miles down into the Louisiana marshes?

A. Yes sir.

Q. Now I ask you whether starting from this south western corner and going eastward towards the Alabama line is there any channel along that border line coming out into the deep water?

A. Well there is no channel except Cat Island channel and Pass Marianne channel.

Q. There is no channel then down in the marshes?

A. Yes sir, it is open and you can go through the marsh. You can go in between the Chandeleurs and the marsh.

Q. Between Chandeleur islands and the marsh?

A. Yes sir.

Q. I speak of in the marsh proper?

A. I say from different parts of the marsh you can go into the Chandeleur bay, I believe they call it, without coming clean out.

Q. You don't seem to have exactly understood my question. What I want to know is whether there is such a thing as a channel of water, water deep or shallow, that would conduct you from the south west corner of the line drawn from the southern corner to the eastern extremity of that line going east. Any channel through the Louisiana marshes?

A. No sir, you can go from one bayou to another and then come out as I say.

Q. Now examine this map about which you have already been testifying which is a map offered by Mississippi and concerning which her counsel has just examined you in chief and state whether on a line you find marked on this map in red ink; starting from the southwest corner and coming across eastward towards the Alabama line, does it not cross there bodies of land as well as water. Does this red line which is the most southerly line drawn on this map extend across land in going eastward?

A. Well it looks to me like this is all land that the line goes through. There is no channel that I know of.

Q. There is no channel that you know of extending from this southwest corner going eastward?

A. From the south west line of Louisiana marsh proper going eastward you can go between Grand pass. There are some islands there.

Q. Here is Grand pass way up here. I am not speaking about that part of the country up here. Is this red line here the channel?

A. No sir, if it is I don't know it.

Q. Do you know how far from the Mississippi shore this red line is Mr. Clemens that you have just been testifying about. How far this red line is from the shore?

A. No sir, I could not say.

Q. Then you cannot testify can you that it is 18 miles from the shore line of Mississippi?

A. Well no, I would not swear to that unless I measured it.

Q. Unless you measured it?

A. No sir.

Q. Can you measure it from this map?

A. No sir.

1401 Q. The reason I ask you is that it has been testified to by one of the witnesses for the State of Louisiana that this line was more than 18 miles south of the shore line of Mississippi.

A. (The witness does not answer this question.)

Q. One of the witnesses stated that it was 25 miles at some points.

A. (The witness makes no answer to this question.)

Q. Well now have you any idea how far Petit pass is from the mouth of Pearl river?

A. No sir, it is so long since I have been out there that I could not say.

Q. Do you know how far Round island is from the mouth of Pearl river?

A. Round island is inside of the marsh is not it. I don't know it by that name.

Q. You don't know of any island by the name of Round island?

A. I have heard of it.

Q. Where is it?

A. I could not say.

Q. Where was it when you heard of it?

A. I have heard of it since I have been out there. Judge, all of these oystermen go out there and they come to places and they give them different names.

Q. The Round island that I am speaking of is not in the marsh?

A. The only Round island that I know of is east of here.

Q. The Round island that I am speaking of is supposed to be and is south of Grassy island.

A. Well I know where it is then. I know the island but I don't know it by that name.

Q. How far is it from the mouth of Pearl river?

A. Well I don't think that it is over ten or twelve miles.

Q. Well some witnesses have testified if I am not mistaken that there was an island known as Round island which has entirely disappeared. Is that the one that you have reference to?

A. There is an island on this side of Grassy island. The last time I was there was 12 or 15 years ago. I could not say any thing about its disappearing since. I have never heard that it disappeared.

Q. Do you know how far south of the shore line of Mississippi Half Moon island is?

A. From the shore proper or from the marsh?

Q. From the Mississippi shore?

A. Well you might call it two shores, because there is a main land and then a lot of marsh run out where the channel commences. Do you mean from that or from the shore proper?

Q. Well take both. Well we will take the main land first. How far is it from that to Half Moon island?

A. I don't think it is over five miles.

Q. How far east from the edge of the marsh?

A. I could not say about the marsh. That marsh must be at least a mile or a mile and a half wide from the shore.

Q. What point on the Mississippi shore is due north of Half Moon island?

A. St. Josephs comes about the closest on it.

Q. St. Josephs?

A. St. Josephs island.

Q. I am not speaking of islands. I am now speaking of the main land. What part of the main land?

A. I don't know the name of that place there. Claiborne poin they call it.

Q. Is that marsh along there?

A. No sir, that is on the main land.

Q. Is there a marsh off the point?

A. Yes sir, there is St. Josephs island, and three or four litt islands lying between that and St. Joseph.

Q. Did you ever go down Turkey bayou?

A. I think I have.

Q. When was this. Do you remember?

A. It was a long time ago.

Q. Did you ever go down Three Mile bayou?

A. Yes sir.

1402 Q. You have been down Nine Mile bayou?

A. Yes sir.

Q. How far down Nine Mile bayou have you been?

A. I have been all through there. I could not tell you the di tance.

Q. You have gathered oysters all through this country?

A. Yes sir.

Q. And you have gone down as far south as Drum bay?

A. Yes sir.

Q. And Junius bay?

A. Yes sir.

Q. Now Mr. Clemens tell me if you please the exact line that yo and other boatmen understood to be the line drawn from the mout of Pearl river going south. Where did it strike the Louisian marshes?

A. Well sir, we considered the whole Louisiana marsh as belon ing to Mississippi.

Q. I understand you——

A. We have made no distinction about any line. We neve thought of such a thing. All that we knew was that Pearl rive was the boundary line.

Q. That is the boundary line between the western part of Missi sippi and the eastern part of Louisiana, you mean do you not?

A. Yes sir.

Q. What I want you to tell me if you can is what point in t Louisiana marsh do you first strike in drawing that line due sout from Pearl river?

A. Well you would strike about Bayou Boudreaux, I think the called it then. I don't know what they call it now.

Q. Where is this? Is it any where near Malheureux point?

A. No sir. Malheureux point lies to the east of that.

Q. Is it anywhere near Petit Pass island?

A. No sir, that is to the eastward of that too.

Q. Petit Pass island was to the eastward of Bayou Boudreaux?

A. Yes sir.

Q. Is there not a Bay Boodre too?

A. No sir, they always called it Bayou Boudreaux.

Q. Was it your understanding and the understanding of every one that was engaged in fishing at that time that the line after it left Pearl river went due south all the way down 18 miles into this marsh?

A. We never thought any thing about lines sir. We never thought anything about the lines.

Q. I understood you to say a while ago in giving your testimony in chief that you had always understood that the lines of Mississippi; the southern boundary line of Mississippi after it left Pearl river was 18 miles due south of Pearl river?

A. Yes sir.

Q. Well now I ask you the question whether you considered that the line that you refer to as being the southern boundary line of Mississippi was reached by going due south from Pearl river right straight down?

A. I do not get that exactly.

Q. You don't understand my question?

A. No sir.

Q. What I asked you was this Mr. Clemens. In order to find the southern boundary line of Mississippi after you leave the mouth of Pearl river, which is the boundary line between eastern Louisiana and western Mississippi, how far south do you go of Pearl river?

A. Well I don't know exactly how to answer that.

Q. Did you not state awhile ago that you understood that the Mississippi southern boundary line was found by going south 18 miles after you got out of Pearl river?

A. That is what I heard.

Q. That is what you understood?

A. Yes sir.

Q. I say was this understanding in your mind this. That this southern boundary line was found by going due south after
1403 you come out of Pearl river?

A. Well I don't know how they found it. I could not say that.

Q. Did not you undertake to say awhile ago when you had this map before you that was introduced in evidence that the line followed a certain course indicated by red marks?

A. Yes sir. I don't know anything at all about these red marks though.

Q. You don't know anything at all about that?

A. No sir.

Q. Did you ever hear anything at all about the line running down from Pearl river due south to a certain point and then going eastward to a certain point and then down Nine Mile bayou?

A. Well I have heard talk of that kind yes sir, but I never paid any attention to it at all.

Q. When did you hear that?

A. I could hear that every day when the crowd gets to talki about the boundary line, but I never paid any attention to it.

Q. When did you first hear of it?

A. Why about a year or so ago, I suppose.

Q. That is the first time, a year or so ago, that you heard abo this line being the line?

A. Yes sir.

Q. Going south to a certain point and then going around by t Nine Mile bayou?

A. I did not say anything about it going around anywhere.

Q. Going down by Nine Mile bayou?

A. No sir, it did not mention any thing about no bayou all of t time I have heard.

Q. Did you ever hear then, I will put it that way, that the li between Mississippi and Louisiana went down Nine Mile bayou?

A. No sir.

Q. Or followed Nine Mile bayou?

A. No sir.

Q. You testify for yourself and other fishermen that the line b tween the southern boundary line and Mississippi was found b going 18 miles due south after you left Pearl river.

A. Yes sir.

Q. I understood you to say that you had never heard any thi about the claim of the deep water channel being the boundary li between Mississippi and Louisiana. Am I correct in that?

A. Me hearing about the deep water channel?

Q. I understood you to say that you had never heard any clai being made that there was a deep water channel that separated Mi sissippi and Louisiana?

A. Well I have heard people talk about that. That Louisian claimed that.

Q. When did you hear that first?

A. I heard that some time ago. I could not say exactly when bu I heard that when this question came up.

Q. Do you remember when was the first time that you heard it

A. No sir, I could not say.

Q. Where were you planting oysters?

A. Right out here at Deer island.

Q. Are you planting there now?

A. No sir.

Q. How long have you been planting oysters there?

A. A couple of years. We are out of seed now.

Q. How far is that from Biloxi?

A. Right over here. That island that you see over there.

Q. The court don't know about that. How far is it?

A. I would call it about a mile.

Q. Is it a good bedding country?

A. Yes sir.

Q. Is not this whole coast country here a good bedding country for oysters?

A. Yes sir, very good.

Q. Is it not a good bedding country from Pearl river as far as the Alabama line?

A. Well no.

Q. Where is it that it is not good?

A. Well from Hendersons point clean here to the Biloxi pass. It is too much exposed. You plant oysters there and they will
1404 get covered up. That has been tried. There are people that have tried it.

Q. Covered up by what?

A. By the sand and mud.

Q. That is not the condition of the coast here?

A. No sir, you plant them here and Deer island and Back bay and all the way down to Pascagoula.

Q. How far is that?

A. Pascagoula is 25 miles from here.

Q. That is all good bedding country, is it not?

A. It is all good bedding country.

Q. Are there any natural reefs along there?

A. Yes sir, at Pascagoula there is.

Q. What was your reason for stopping fishing oysters in Louisiana marshes as far back as 1862?

A. Because I quit it altogether.

Q. You quit the business?

A. Yes sir.

Q. Is there not a channel between Cat island and Isle à Pitre?

A. As I stated before there is a channel between the islands but there is hardly any water in it. You could not take more than three or three and a half feet in good tide.

Q. Between Cat island and Isle à Pitre?

A. Yes sir.

Q. How do vessels come in here?

A. They come through Ship Island pass and Cat Island pass.

Q. What do you call Cat Island pass?

A. South of Cat island.

Q. Between Cat island and Isle à Pitre?

A. Yes sir.

Q. How far does this extend?

A. As far as St. Joseph island.

Q. How far is St. Joseph island from the mouth of Pearl river.

A. About five miles I suppose.

Q. From St. Joseph island to Pearl river is there a channel?

A. Yes sir.

Q. The same channel as comes through there?

A. No sir, you call it St. Joseph channel.

Q. But that is a channel of about the same depth is it not?

A. No sir, there is more water in St. Joseph channel than in Cat Island channel.

Q. There is more water in there than in the Cat Island channel?

A. Yes sir.

Q. How much water is there in Cat Island channel from Cat Island pass to Mound island?

A. You can take from seven feet to eleven feet.

Q. And that channel passes north of Half Moon island, does not it. It passes between St. Joseph and Half Moon island does not it?

A. That channel passes south of Half Moon.

Q. Are not you mistaken about that?

A. No sir.

Q. Where does the St. Joseph channel strike it?

A. After you get out of Cat Island pass you go around north of west and go into St. Joseph pass.

Q. I understand, but let's start from Cat Island pass. The pass between Cat island and Isle à Pitre, going towards Pearl river. That pass has as much as from seven to eleven feet of water in it?

A. Yes sir.

Q. That channel goes until it strikes St. Joseph channel does it not?

A. Yes sir.

Q. At what point does it strike St. Joseph channel?

A. I could not say that exactly. It always cuts off there when you get clear of Half Moon. They come right across St. Joseph. To the east of St. Joseph in to the St. Joseph channel.

Q. And that takes you to Pearl river does it not?

A. That takes you to Pearl river.

Q. What is the depth of this channel?

A. In some places it is 20 to 25 feet deep.

1405 Q. Are you not mistaken when you say that this channel is south of Half Moon. Does it not come north of Half Moon island?

A. The St. Joseph channel? Yes sir.

Q. The St. Joseph channel is north of Half Moon is it not?

A. Yes sir, we are talking about Cat Island channel?

Q. I am talking about the channel leading out of Pearl river and going eastward which you claim is St. Joseph channel?

A. Yes sir.

Q. That channel runs north of Half Moon island?

A. Yes sir.

Q. Where does it strike Cat Island channel?

A. It don't strike it at all. It comes right on to Pass Marianne.

Q. Where do the two channels intersect?

A. The Cat Island channel shoals off when it comes close to Grassy island there, and then the vessels cut off between that and St. Joseph and go into St. Joseph channel.

Q. How do they go from St. Joseph to another one?

A. Simply crossing over.

Q. From one channel to another?

A. Yes sir, after you leave Cat Island pass there is a difference of a foot or two between that and St. Joseph's. The vessels never attempt to go through there that draw over seven feet.

Q. Let's go back from that. When you go between Isle à Pitre and Cat island. Through this Cat Island channel. That channel leads through there going west. How far does this channel go before it loses itself?

A. Up to Grassy island.

Q. North or south of Grassy island?

A. North of it.

Q. North of Grassy island?

A. Yes sir.

Q. Well then where is what you call St. Joseph channel?

A. To the south of St. Joseph island.

Q. And it goes as far as Pearl river, does it not?

A. Yes sir.

Q. Well now how does a vessel for instance that goes in between Cat island and Isle à Pitre get to Pearl river? What channel does it take?

A. The vessel comes from the outside and it takes the Cat Island pass, and comes as far as Grassy island and comes north into the St. Joseph pass.

Q. I understand you now. At Grassy island where the Cat Island pass loses itself the vessel would take a northern course?

A. Yes sir.

Q. And it goes up into the St. Joseph channel?

A. Yes sir.

Q. How far are those two channels apart at Grassy island?

A. About three or four miles or some where along there.

Q. Is there deep water at that point. At Grassy island?

A. There is about eight or ten feet there.

Q. You can take that way from one channel into the other?

A. Yes sir.

Q. How deep is St. Joseph channel?

A. In some places it is 25 feet deep.

Q. From Pearl river until you get north of Grassy island?

A. From the Rigolets. You don't want to go that far.

Q. No, I am talking about from Pearl river?

A. You can take eight or nine feet there before you get to St. Joseph and then 20 or 25 feet.

Q. What is the channel called Mr. Clemens that comes out of the Rigolets. Is not that St. Joseph?

A. No sir, we call that Lake Borgne.

Q. Is not there a channel that comes out of the Rigolets?

A. Yes sir, there is a channel, but I never heard it called any name.

Q. How far does that go eastward? Does it strike either St. Joseph channel or Cat Island channel?

A. It don't strike Cat island at all. It strikes St. Joseph.
Q. At what point?
A. It is on a straight line from St. Joseph to the Rigolets.
Q. It strikes St. Joseph?
A. Yes sir.
1406 Q. How far does St. Joseph channel run eastward from St. Joseph island?
A. I think that it goes as far as Pass Marianne. They call it Marianne pass.
Q. Where does it go into the deep water?
A. From Pass Marianne.
Q. Yes sir?
A. It goes out at Ship island
Q. North of Ship island?
A. Yes sir.

Redirect examination.

By Gen. McCLURG:

Q. Gen. Guion asked you Mr. Clemens about going through Nine Mile bayou, Three Mile bayou, Turkey bayou and I believe Grand pass. When was it that you first went through these streams?
A. In the 50's.
Q. In what sort of a craft or vessel did you go through them?
A. Schooner.
Q. Schooner of what draught?
A. Two feet to two and a half feet.
Q. How far south did you go then?
A. I could not say how far south. I went all through it.
Q. You went down into the marshes did you?
A. Yes sir.
Q. Gen. Guion asked you about whether there were any channels in the marshes proper, and I think you answered that there were none. I want you to answer me now whether you had any trouble with a schooner drawing two or three feet in going around through the waters of these marshes in 1851, 1852, 1853 and along that time?
A. Well some times we had a little trouble. We would run out of the channel and get on a mud lump. The channel proper was so crooked that once in a while you would get out of it.
Q. I understand you to mean there is something like a channel through these marshes?
A. There are channels all through the marshes from one bayou to another. For instance you leave that Indian Mound Bay island. You have a channel to go through there, and on both sides of that is maybe oyster reefs.
Q. Could you go with a boat drawing three feet through Nine Mile bayou to False Mouth bay down into Treasure bay?
A. Yes sir, you can go from any of these places to any other.

Q. With a boat of three feet draught?
A. Yes sir.
Q. You said to Judge Guion that you did not know any thing about this red line on the map about which we have examined you?
A. Yes sir.
Q. And you have also stated that your general understanding was that the Mississippi line extended 18 or 20 miles south?
A. Yes sir.
Q. That is true as to your understanding regardless of the red lines?
A. Yes sir.
Q. And that has been your understanding for fifty years? Is that correct?
A. Yes sir.
Q. That Mississippi extended 18 miles south?
A. Yes sir, I have always understood it that way.

Here the commission adjourned until the afternoon session.

The commission reassembled Thursday afternoon, and the following testimony was taken, towit:

1407 Captain WILLIAM GORENFLO, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows towit:—

Q. Where do you reside, Captain?
A. On the back bay of Biloxi.
Q. How old are you?
A. I will be 61 years old on the 5th day of this month.
Q. How long have you lived in Biloxi?
A. I came here in 1853.
Q. What is your present occupation?
A. I am engaged in the canning business at present.
Q. Oyster canning?
A. Yes sir, that is right.
Q. What has been your business since 1853?
A. Well since 1874 I have been in the oyster business, and from 1868 to 1874 I was running on boats and jobbing around.
Q. Running on a boat where?
A. Part of the time in the Louisiana marsh and part of the time fishing oysters in Mobile bay. In the waters of the marsh out there.
Q. This is a suit brought by the State of Louisiana against the State of Mississippi in regard to establishing the boundary line between the two States. The claim of Louisiana is substantially that the line between the two States is one that follows the deep water channel out of the mouth of Pearl river eastward north of Half Moon island. Into South West pass between Cat island and Isle à

Pitre and to the north east of Chandeleur into the Gulf. It is claimed on the part of Mississippi that no record should be made of any channel, but that we should follow the intention of Congress in fixing the boundary between these two States at 18 miles from the shore of Mississippi, and at each point from the shore between Pearl river and the Alabama line to the eastward. This line claimed by Mississippi extends far into what is called the Louisiana marshes. I would like for you to say please whether you are familiar with this territory that is in controversy as indicated by what I have stated?

A. Yes sir, I believe that I am.

Q. How long have you been familiar with this territory?

A. Well the first time that I went out there I spent about three weeks out there when I was a boy. I think that it was in the winter of 1858 that I went out there. I spent three weeks with my father out there. He was sick and the doctor advised him to go out there.

Q. Where was it that you spent these three weeks?

A. We went in Three Mile bayou and struck off to the westward. We went out with an old man who had a sloop called the Fairy. My father went out there and spent three weeks so as to get a change of air, and be in the open air.

Q. Where were you?

A. We spent most of the time in what they call Treasure bay where this old fellow had his traps. He was catching muskrats and otter and minks and such as that. That was my first visit.

Q. If you can state I would like for you to state in what jurisdiction you were then. In Treasury bay. Whether in Louisiana or Mississippi.

A. Well at that time we did not know where we were. At that time that question had not come up. We did not know whether we were in Louisiana or Mississippi at that time. That is really in what we claim as Mississippi now according to our present contention from the map.

Q. You say that is what we contend now?

A. Yes sir.

Q. Can you say how long we have been contending that this is in Mississippi jurisdiction?

A. Well that is more than I can say. I will say that we have been contending though for the last 12 or 14 years; we have been contending that that part belonged to the State of Mississippi.

1408 Q. Treasure bay is within 18 miles of the shore is it?

A. I think that portion of it is yes sir.

Q. Have you been in that disputed territory since that time?

A. That is the first time I went out there on a short trip when I was out there about three weeks.

Q. You have been familiar with it since that time?

A. Yes sir, during the war, of course, I was not out there then. But in 1868 I think I began to give attention to it there.

Q. I wish you would please tell us what has been your uniform understanding and so far as you are informed the understanding of

every boatman, fisherman, and the people generally who have been in that section as to about where the limits of the State of Mississippi are, and have been regarded during this time?

A. Well as I stated, I think in the last 12 or 14 years this question has been broached, but previous to that I don't think that anybody gave it any thought, whether we were in Mississippi or Louisiana. We were never interfered with by the authorities of either State, Mississippi or Louisiana, and consequently we did not think about it and did not know who it belonged to, but since this question has been agitated, when we went out 18 miles; we knew that was a good long ways out; it was natural to suppose that we were in Mississippi.

Q. 18 miles from what?

A. From the main land.

Q. Of what?

A. Mississippi.

Q. I understand you to say that you and other fishermen and boatmen and the people of Mississippi have regarded yourselves within the limits of the State of Mississippi so long as you were within 18 miles of her shore?

A. We did at that time yes sir.

Q. At what time?

A. Say the last 14 years. I think that it has been about 14 years since this agitation commenced with the papers about the boundary question. I think that it has been about 14 years since the first intimation that we had of it.

Q. How long has it been since there has been any definite dispute about this boundary line?

A. I could not say exactly. It has been about four or five years ago.

Q. Previous to that time there was never any controversy about the right to go in there?

A. No sir, there was never any controversy about it no sir.

Q. I will ask you to please examine this map before you made an exhibit with the cross bill of Mississippi in answer to the original bill of complaint filed against her by the State of Louisiana in the Supreme Court of the United States and say whether you recognize the red line beginning at the mouth of Pearl river, running southward through Lake Borgne, and thence around what are termed the Louisiana marshes by Malheureux point, and between Malheureux point and Petit pass on to Nine Mile bayou, and thence going southward and westward around what is claimed to be the mainland of Louisiana to a point westward through Lake of the Mound, and thence meandering eastward with the shore of Mississippi, and supposed to be about 18 miles from the Mississippi shore. Please say whether that is according to your personal knowledge, individual judgment and general information covering all of your past observations and experience within the limits of the State of Mississippi?

By Gen. GUION: The question is objected to by counsel for Louisiana because of its leading character, and as indicating to the witness the answer that is desired, and the counsel for Louisiana further objects that the question should be put in the form of a direct inquiry to be answered by the witness as to what he considers is and should be the southern boundary line of the State of Mississippi.

1409 A. Well, I should say that so far as the southern boundary is concerned, I would say it was well within the boundaries claimed within this State. So far as the western boundary is concerned, I don't know much about that. The western boundary, because I don't know how you measured this, but I do know that all of this portion here from Treasure bay east, and south as far as the red line is concerned I would state according to my belief that it is within the State of Mississippi. That is within the 18 mile claim.

Q. What is your belief based upon?

A. Well so far as that is concerned it is both upon the distance and from the fact that we have never been molested since we started to fishing there. Nobody has tried to stop us. We have always considered that we had a perfect right to fish there and nobody has ever tried to stop us.

Q. What State did you consider your self in?

A. We considered ourselves in the State of Mississippi.

Q. Did you ever go through Nine Mile bayou southward?

A. Yes sir.

Q. When did you first make that trip?

A. I made that trip in about 1869.

Q. In 1869?

A. Yes sir, in 1869.

Q. By what means did you go through there in 1869?

A. With a schooner.

Q. What draught was she?

A. We went through there very light.

Q. About what was she drawing?

A. I suppose that she was drawing about two and a half feet of water.

Q. Where did you go?

A. We went into a half dozen different places, but our main object was to go to Bayou Treasure.

Q. That is Treasure bay?

A. Yes sir, we called it Bayou Treasure. This is the bay. The southern portion of it was then called Bayou Treasure.

Q. How wide would you say that Nine Mile bayou was at that time?

A. Distance on the water is hard to tell. At that time I would say that it was about 150 yards wide.

Q. Did you ever go through Three Mile bayou to the southward?

A. Yes sir, that has been some time ago though that I went through Three Mile bayou.

Q. About what time was it that you first made that trip?

A. The only time that I went through there is when I went with the Evangeline, about 12 years ago. You see we did most of our fishing on West Karako bay. The most of our fishing was down through Fox bay and through this section of country in Southwest pass, into East Karako and in about Greque bayou. We did a great deal of fishing below there in Bayou Greque. Through Grand Pass into Bayou Greque.

Q. Tell me if you can Captain about how wide Three Mile bayou was when you first went through it?

A. That has been a good long while ago that I first went through Three Mile bayou. I went once through Nine Mile bayou and once through Three Mile bayou, but I don't recollect how wide it was.

Q. Did you go through Three Mile bayou with the same craft that you did Nine Mile bayou?

A. Yes sir, we went with a steamer through Three Mile bayou.

Q. How much was she drawing?

A. I suppose about three and a half feet of water.

Q. Where did you go?

A. All through here by Little Raccoon and West Karako bay and through Cranetown and came out at Elephant point.

Q. Into what?

A. Out into the Gulf. We went to Martin island and through Live Oak bay and through that section of country with a steamer, and through Drum bay, and came down again through Southwest pass. We were examining the oyster reefs at the time to see whether there were any left there.

Q. When was this?

1410 A. It is about 12 or 14 years ago that we were through there on that trip.

Q. Did you ever pass through Johnson bayou to the south of it?

A. Bayou Johnson. No sir, I was not in there.

Q. Have you ever travelled through Turkey bayou?

A. Yes sir.

Q. On what kind of a craft did you go?

A. It was a small craft.

Q. Drawing how much water?

A. About 20 inches of water through Turkey bayou.

Q. Where did you go?

A. We went into Turkey bayou and then into Karako bay.

Q. When was this?

A. That was in about the '70's.

Q. What were you looking for?

A. We were fishing oysters. There are some of the finest kind of oysters in Turkey bayou.

Q. There were at that time?

A. Yes sir.

Q. And are yet?

A. Yes sir.

Q. Did you ever pass through Grand pass?
A. Yes sir, often. Hundreds and hundreds of times.
Q. Your first trip through Grand pass was about when?
A. About 1868 or 1869, because I had to go through Grand pass to get to Bayou Greque, where our fishing grounds were.
Q. What is the largest craft you were ever in going through Grand pass?
A. Well the Nymph. 42 foot keel.
Q. Drawing how much water?
A. About five feet loaded.
Q. I notice on the map before you Creole gap. Tell us what you know about Creole gap, please sir.
A. I have been through there.
Q. Did you ever go through Creole gap?
A. Yes sir.
Q. In what kind of a craft?
A. I have been through there with the schooner Nymph. I was out there with her when I was buying shrimp. I was out there buying shrimp. In 1890, 1891, 1892 and 1893 I was out there buying shrimp.
Q. When did you first go through Creole gap?
A. I don't think I went through Creole gap, not before maybe in the '80's 1882 or something like that.
Q. Are you familiar with Isle à Pitre?
A. I have been around it and on it.
Q. Since when. How long ago?
A. I have been on Isle à Pitre since 1868 off and on nearly every year.
Q. In what State is Isle à Pitre?
A. Well that is in Mississippi too.
Q. Turkey bayou is in what State?
A. The State of Mississippi.
Q. How about Three Mile bayou?
A. That is in the State of Mississippi also.
Q. Nine Mile bayou?
A. Mississippi.
Q. Petit pass?
A. Well that I don't know. I don't know much about Petit Pass section of the country. Of my own personal knowledge I don't know how that line would run. That is from the mouth of Pearl river in the southerly direction, whether it would strike Petit pass or not. Of my own knowledge I would not know whether it would or not.
Q. False Mouth bay, and Nine Mile bay are in what State?
A. In the State of Mississippi.
Q. Treasure bay is in what State?
A. In the State of Mississippi.
Q. Indian Mound bay is in what State?
A. In the State of Mississippi.
Q. Big and Little Raccoon islands are in what State?

A. Well I don't know them. Perhaps if I know them they would call up some other name.

Q. East and West Karako bays?

1411 A. According to my belief they are in the State of Mississippi.

Q. Mud island is in what State?

A. Mud Grass island we call it. That is in the State of Mississippi. That is all up to the eastward.

Q. Crane Town bay is in what State?

A. It is in the State of Mississippi.

Q. Brush island is in what State?

A. In the State of Mississippi.

Q. Jack Williams bay is in what State?

A. In the State of Mississippi.

Q. Do you know where Grassy island is?

A. Yes sir.

Q. In what State is Grassy island?

A. If Pearl river is the western boundary that is in the State of Mississippi.

Q. And Round island? What State is that in?

A. In the State of Mississippi.

Q. La Petit Pass island is in what State?

A. I don't know anything about that.

Q. Half Moon island?

A. Half Moon island is in the State of Mississippi.

Q. St. Joseph island is in what State?

A. That is in the State of Mississippi. I don't think there is any more island there. It is all gone.

Q. What has become of Half Moon island?

A. It is washed away.

Q. I will ask you to please state what change if any there has been in the general contour of this section of the country in dispute between these two States in what we term the Louisiana marshes. That is to say whether there has been any substantial transformation in any respect since you first became acquainted with the territory?

A. As far as I am concerned I don't see but very little. In fact I don't see that I see any changes really. We have to go through the same bayou and we have to go around the same island that we did 25 or 30 years ago to get to any point. Most of the islands are there yet. The only place that I see any changes. They had some reefs on the outside of Battle Door point and they are washed away.

Q. That is on the east side?

A. Yes sir, on the east coast. They are no longer there. They are gone.

Q. Have you ever noticed whether there has been any subsidence or sinking of this section?

A. No sir. The marsh is as high as it ever was. The ground is as high as it ever was. I can not see any difference.

Q. I understood from what you said that you are familiar gener
ally from Nine Mile bayou eastward to the north east point of Isle
Pitre. Am I correct?

A. Yes sir. I have travelled over this country looking for shrimp
more than I did for oysters.

Q. For how long have you been travelling this shore?

A. I have been travelling that off and on since 1885 or 1886.

Q. Have you noticed any material changes in the coast line be
tween Nine Mile bayou, and the north east point of Isle à Pitre
during this time?

A. No sir, I could not say that I have. The bayous are there ye
and the islands are there yet.

Q. Are they there substantially the same as they were when you
first saw them?

A. They are about the same that they were then.

Q. Have waves, natural, or unnatural in the shape of storms
made any material changes in the coast between Malheureux point
and Nine Mile bayou and the northeast corner of Isle à Pitre during
your knowledge?

A. No sir, the only thing, is that it might have widened the
mouth of Nine Mile bayou right at the entrance. I think it is a
little wider there than it was. But for the balance I don't see any
changes. It has cut off a little here at Grand pass, but what it has
cut off there it has made on the other side.

1412 Q. Is it true where this is cut away at one point it has
made at another?

A. It generally does. It is this way. If there is a storm, the
marsh is all low, the water rises and the whole thing is covered.
There is nothing there to offer any resistance really to wash. It is
just one lake, one sea. You can not see any land or marsh for
miles and miles.

Q. Have you ever observed any where in this marsh about which
we have been talking, or this territory, any industrial life, such as
agriculture, horticulture, stock raising or gardening or anything
like that?

A. No sir.

Q. Is it suitable now or has it ever been to any such occupation
or habitation?

A. No sir, the only habitation that was ever down there is the
fisherman's camp that was built up there for temporary houses to
fish in. I have been out there in Grand pass several times and no-
ticed them. We had a camp at Door point ourselves. We built a
fisherman's camp there but it was swept away by the gale.

Q. That was a cheap concern was it?

A. Yes sir, it was a temporary structure, but there is no place
around there that would do to cultivate or for a man to go there
and make it his permanent home. I don't know of any such place
around there in that section of the country.

Q. Taking your eyes off of the map and relying upon your own

information and memory respecting that territory, what have you to say with reference to its adaptability for habitation or industrial life of any kind?

A. I don't believe that I would live out there if a man would give it all to me.

Q. And how does that compare with the years back since your first knowledge of it?

A. It was not any better then than it is now.

Q. No worse than it is now?

A. I don't know. About the same I think. I don't think that the mosquitoes have gotten any less or any thing like that. They are about the same.

Q. Could you say whether there is more or less water now than there was forty years ago?

A. No sir, I don't think that there is.

Q. It is about the same do you mean to say?

A. Yes sir, about the same. There may be some few places that are deeper. I believe the Creole gap is cut deeper. I think there is more water in Creole gap than there was years ago. That is about the only place that I know of.

Q. You will notice on this map a line is indicated as the deep water channel leading out of the mouth of Pearl river around to the north of Half Moon island and to the southwest of Cat island, commonly called the deep water channel, and which line is claimed by Louisiana as the true dividing line between these two States. You are familiar with that channel are you?

A. I have gone up and down that channel yes sir.

Q. Could you say whether or not that has ever been recognized as the dividing line between Louisiana and Mississippi?

A. No sir, it never has. I have never heard it claimed by any one at all until this suit came up.

Q. You say that that channel was buoyed by the United States Government?

A. Yes sir.

Q. For what purpose?

A. To mark the deep water channel for the sea going vessels.

Q. For navigation purposes and for commercial purposes?

A. Yes sir, that is really the course that was pursued by vessels that used to go to Pensacola, and Florida. They used to go over this way. There was considerable traffic from Pearl river to the mouth of Mississippi river also. There are a good many schooners around there.

Q. Boats of light draught in common commercial business. Do they pay any respect to the channel or do they travel wher-
1413 ever they find water enough?

A. Wherever they find water enough. Sometimes they save a great deal of distance in doing that.

Q. The channel, if I am not mistaken, is used for vessels of deep draught?

A. Yes sir.

Q. You are familiar with the Mississippi shore line, from P cagoula to Pearl river are you Captain?

A. Yes sir. I have travelled it as far as Moreland. I have b many times a good deal west of that, but from Moreland dow have travelled it considerably.

Q. Have there been any material changes in the Mississippi co within your knowledge?

A. No sir, not that I saw.

Q. Do you remember the storm of 1893?

A. I do.

Q. What direction did it come?

A. The hardest of the blow was about south of west. South w

Q. From the south west?

A. Yes sir, that is the hardest of it. Of course it blew very hea from the southeast, but I think that the hardest blow that we h was a little to the west of south. Southwest.

Q. Then its force was strongest against the Mississippi sho was it?

A. Yes sir.

Q How was this storm with reference to its strongest force in pa ing over this disputed territory in the marshes?

A. That I could not say.

Q. How did it cross these marshes after it touched them?

A. From my own personal knowledge I could not say what w the strongest wind out there except from conversations with survivors of the storm. Of my own personal knowledge I do know. I was on the main land when it occurred.

Q. Have you any knowledge of any violation of the criminal la of Mississippi within this disputed territory? about which you ha been talking?

A. Well I know of one case where the party was arrested for offense. That is it was supposed to be some offense that was co mitted out here at Isle à Pitre. A young man was drowned there.

Q. What was his name if you know?

A. His name was John Kennedy, and his body was found on I à Pitre.

By Gen. GUION:

Q. Is that of your own personal knowledge?

A. Of my own personal knowledge? No sir.

By Gen. MCCLURG:

Q. Did you see the body?

A. No sir, I did not.

Q. What personal knowledge have you about the matter?

A. Well the personal knowledge that I have about it is from t parties that were arrested.

Q. You talked with them?
A. Yes sir.
Q. Who was arrested?
A. Well the two brothers of this man that was drowned.
Q. You talked with them?
A. Yes sir.
Q. Where did you talk with them?
A. Right here in Biloxi.
Q. Were they under arrest at the time that you talked with them?
A. No sir, it was after they were acquitted.
Q. Had they been tried?
A. Yes sir.
Q. Do you know of your own knowledge where they were tried?
A. Here in Biloxi.
Q. Here in Biloxi?
A. Yes sir.
Q. Do you know of any notice that has been taken by the officers of the State of Mississippi down there?
A. No sir, I do not.

1414 Cross-examination by Gen. Gibbs:

Q. Captain will you please examine the map before you and look in that part of it west of Nine Mile bayou and state if you can what is meant by the letter "T." followed by the figure "12," and the letter "R." "17" "E." "T. 12. R. 17. E."
A. I stated before that I did not know any thing much about west of Nine Mile bayou. I don't know what that means.
Q. You don't know what that "T. 12. R. 17 E." means?
A. No sir I do not know.
Q. Would not that in your opinion stand for township 12, range 17 east?
A. Yes sir, it would I reckon.
Q. Then a little east of that you will find this letter "T. S. corner"?
A. Yes sir.
Q. And just above that a round mark, round dot. Could you state what that is in your opinion?
A. No sir I don't know.
Q. Would not you be inclined to think that that stands for a township corner?
A. Possibly so. I don't know what it is.
Q. Then further down on the same map and still west of Nine Mile bayou you will find the following "T. 13. R. 17. E."?
A. Yes sir.
Q. Could you state what that stands for?
A. Well if the other stands for township and range I suppose that would mean the same thing. If the other stands for that.
Q. Now please examine the rest of this map and state whether

you find any lettering at all which would seem to indicate townships and ranges going east of Nine Mile bayou. Through the whole part of the map east of Nine Mile bayou do you find any lettering that would seem to indicate townships and ranges?

A. No sir, not on this map.

A. Could you give us any reason why this lettering is found west of Nine Mile bayou on this map and no lettering east of Nine Mile bayou?

A. I don't know but that was put down there from some marks they found from some old map to call that the Louisiana line. That the Louisiana line run up that far.

Q. Would you believe that to be the fact, if as a matter of fact this whole country had been laid off into townships, ranges and sections?

A. I don't know sir. That is a question I cannot answer.

Q. Captain, could you give us the distance from the mouth of Pearl river to Malheureux point?

A. No sir, I don't know but very little about Malheureux point. When I get around Nine Mile bayou I know very little of this section of country. I have passed there once or twice in my life, but I know very little about it.

Q. Then you don't pretend to state what the boundary line is between Mississippi and Louisiana going south after you leave the mouth of Pearl river?

A. No sir I don't know much about that section.

Q. Do you know any thing at all as to where the line that divided Louisiana and Mississippi in the waters south of Pearl river strikes what is called the Louisiana marshes. At what point of your own knowledge?

A. Well of my own knowledge, looking at this map of course according to this map it would strike and come along around—that is considerable distance to the west of Petit pass, but how far I don't know. As I say I am not familiar with that portion west of Nine Mile bayou. I never had any occasion to go there to work there or any thing.

Q. You know nothing at all about the boundary line between the two States in waters between the mouth of Pearl river and the first land in the Louisiana marshes do you?

A. At Malheureux point?

1415 Q. Do you know any thing at all about the boundary line after you reach the Louisiana marshes going south except from what you see on the map?

A. How do you mean?

Q. I mean what is the dividing line in the marshes between Louisiana and Mississippi?

A. No sir, I do not. That is to the westward. Because we never had any occasion to ask and find out any thing about it. I never worked much down there. Most of our work was done to the eastward.

Q. Is it not a fact Captain that when you make the statement that you believe that this red line which you find on this map before you indicates the southern boundary line of Mississippi, that you believe that this is the southern boundary line because it is supposed to be 18 miles from the shore?

A. Yes sir.

Q. In other words is it not a fact that you have simply a general idea and belief that Mississippi's line or southern boundary should extend 18 miles from the shore line following the meanderings of the coast?

A. That has always been our contention. That has always been our belief yes sir.

Q. Always?

A. Ever since this question has been agitated.

Q. That is for the last 12 or 14 years?

A. Yes sir, our attention was called to it before that. We did not know who it belonged to. We fished any where and were never bothered, and nobody interfered with us. A good many of them supposed that it belonged to the United States Government I suppose as far as we knew. We did not know where the boundaries of Louisiana came.

Q. You don't know now where the southern boundary line is. But you believe that it is 18 miles from the shore?

A. Yes sir, that is our belief so far as the boundary line of Mississippi is concerned.

Q. You don't know actually where the designated points are starting from the southwest corner coming eastward do you?

A. No, I don't know how far west they go into the marsh. No sir, how far west they extend I don't know.

Q. Did I understand you to say Captain that you believed that this red line which indicates the southern boundary line of Mississippi is the correct boundary line?

A. Well so far as I know I believe that it is.

Q. Do not you base that belief upon the fact that you believe this red line is 18 miles from the shore line?

A. We have measured the different maps with a scale and one thing another, and so far as out measurement is concerned I think this red line is very near correct.

Q. I say, do not you base your belief in stating this red line is the southern boundary line between Louisiana and Mississippi upon the fact that you believe it is 18 miles from the shore?

A. Well according to the maps and what we have measured by the scale it is about 18 miles and I base my belief on that because according to our understanding Mississippi's southern boundary line is 18 miles from the shore.

Q. Where did you get that from. That Mississippi's line is 18 miles from the shore?

A. To tell you the truth I don't know. I know that I have read it. I can not say where I have read it. I know that it has always

been considered. I know that I have read some where that Mississippi's line goes due south six leagues including the islands.

Q. How is that?

A. We have been reading up on it. I don't know whether it is in the constitution of Mississippi defining the boundaries, but I know that I have read some where that the Mississippi line goes six leagues due south including the islands.

Q. Does it say that the lines shall extend 18 miles south of the shore line?

A. I suppose if it says six leagues including all islands that it certainly means that line.

1416 Q. Your idea then is that because it says it includes all islands within six leagues that therefore the line should extend six leagues south?

A. If you read that the boundaries of the State of Mississippi shall extend 18 miles due south including all of the islands——

Q. But is that the language of the act?

A. I think that it is.

Q. Well you may be right but I don't agree with you exactly about the language of it?

A. That is where I formed my impression that the boundaries of Mississippi extended 18 miles from the main shore.

Q. And acting upon that belief you believe that this red line on this map is the boundary line?

A. I certainly do.

Q. That is because you believe that is 18 miles from the shore?

A. Yes sir.

Q. If as a matter of fact that red line was not 18 miles from the shore you would not believe that this was the boundary line would you?

A. If it was seventeen and a half miles we would have to go a half a mile further. If it was eighteen and a half miles we would have to draw back a half a mile, but it is very near it.

Q. Is there a well defined shore or coast line from Malheureux point to the north east corner of Isle à Pitre?

A. A well defined shore line all along here.

Q. Yes sir.

A. Well now from Nine Mile bayou or Malheureux point I am not prepared to say because I don't know much about that. But from Nine Mile bayou east from the places there where the shore is perhaps 18 or 20 inches high, and then you will get a low place again where there is a lot of marsh grass sticking out, and maybe covered over every high tide. It is covered with marsh grass, and you go along there and you will find little higher places where you can walk along there, and then you come to a low place covered with marsh grass. Low and no sign of land. That is the general character until you get down on the east side of Grand pass, and there are some little shell mounds there where the fishermen had their camps for awhile. When you get on the inside of Grand pass it is the

same way. Isle à Pitre is a little higher in some places I think than to the west of there.

Q. There is a well defined line of demarcation between the land and the water all along there is there not?

A. Yes sir.

Q. A part of it being land and a part being marsh?

A. Yes sir, none of the ground there is very high.

Q. The only thing that breaks that line are these bayous, like Nine Mile bayou and Three Mile bayou and Turkey and Johnson bayou-?

A. It would be the marsh because these islands are all marshes.

Q. Composed of what?

A. I say that these islands are nearly all covered with marsh grass. There is only one little piece on Isle à Pitre that there are any bushes growing on.

Q. But that marsh is definitive is not it. It is not a flooded marsh?

A. No sir, it is not a flooded marsh.

Q. It is some thing in which the marsh grass grows?

A. Yes sir.

Q. Which is soil is it not?

A. Yes sir, it is soil.

Q. What is it that breaks that line of marsh land from Nine Mile bayou to the eastern extremity of Isle à Pitre. That breaks into it. Is there anything except these bayous that you speak of?

A. That is about all. It is all cut up into bayous. There is Nine Mile bayou and Three Mile bayou, and Turkey bayou, and some little bayous there that have no names.

Q. Captain do you know when for the first time there was any law passed by the State of Louisiana that prohibited other persons than citizens of the State to fish in what was claimed to be the Louisiana waters?

A. No sir, I do not.

Q. Well is it not a fact that it was only after Louisiana
1417 passed laws confining and limiting to her own citizens the fishing of oysters in waters that she claimed that this question arose between Louisiana and Mississippi as to the exact location of the Louisiana territory?

A. Yes sir, it is.

Q. The Louisiana authorities made no attempt to interfere with the Mississippi people until after such laws had been passed did they?

A. I don't know whether they ever passed any laws, but I don't know any time that they have attempted to interfere with any body in this particular locality that I know of until about five years ago, four or five years ago.

Q. In what way did that occur?

A. Well I was informed by some of my boatmen that some sheriff or sheriff's officer had come down and notified some of the boatmen

fishing in there, I think it was in Indian Mound bay or some where around there, no, they were fishing in Drum bay I think it was. And said that they would be arrested, and in order to test the matter I made an agreement and went and employed Mr. Neville to see about this matter. Mr. Neville went over to see the district attorney of that parish, I think Estopinal was his name. He went over there and I don't know what they did do, but they never troubled us any more or came around us. We were never bothered any more about our boats at all. I don't know what arrangements Mr. Neville made with them. They never took any further steps. That was the last of it.

Q. Well is it not a fact Captain when you were fishing oysters in this territory that you have spoken of that you believed yourself in Mississippi because no one claiming to represent Louisiana made any effort to interfere with you?

A. As I stated, up to 12 or 14 years ago we never gave it a thought. We did not know where we were. We never gave it a thought at all.

Q. It is a fact that there was no question about where you fished until this interruption?

A. Yes sir, until these newspaper articles were published calling our attention to the fact, and then we began to read the constitution of the State of Mississippi to find out how far we could go.

Q. You had been fishing indiscriminately all through this Louisiana marsh country?

A. Yes sir, every where.

Q. Until this happened?

A. Yes sir.

Q. And you had never given it any thought about where your boundary line was?

A. No sir, not up to 12 or 14 years ago we did not.

Q. Has the State of Mississippi ever undertaken to exercise any jurisdiction over this territory north of this southern boundary line, which you claim to be the boundary line. Marked red on this map.

A. In what way?

Q. In any way?

A. Well I don't know that anything ever happened out there that they should claim any jurisdiction of. Not to my knowledge.

Q. Has she ever assumed the right to tax any of this property out there?

A. No sir, there was never any tax levied on oysters until the last three years.

Q. Has she ever assumed any right to collect taxes on any of these lands out there?

A. Not that I know of, no sir.

By Gen. McCLURG:

Q. Does Mississippi tax oysters taken out of that territory like he does oysters taken elsewhere?

A. Now, at the present time?

Q. Yes sir. Where ever you take oysters in this State?

A. They have for the last three years since this oyster law went into effect.

By Gen. GUION:

Q. I have understood you to say Captain that you under-
1418 stood Isle à Pitre and Three Mile bayou and Nine Mile bayou and other places between Malheureux point and the end of Isle à Pitre to be in the State of Mississippi. Am I right?

A. Yes sir.

Q. Upon what do you base that belief?

A. Because it is within this 18 mile line.

Q. Is it not entirely on that ground that you have formed that conclusion?

A. Yes sir, I have read that the boundaries of the State of Mississippi extend due south 18 miles including the islands, and of course we know very well that it is not 18 miles from Waveland to Isle à Pitre.

Q. How do you reconcile that with the claim that Louisiana makes under the act of Congress that she gets nine miles from her coast?

A. My understanding would be that nine miles would start from the main land the same that the State of Mississippi does. Not from out at this marsh.

Q. What do you mean by the main land of Louisiana?

A. I mean from *terra firma.*

Q. Where is that?

A. You can go back until you get to the cypress trees there where *terra firma* is.

Q. Where is the point in Louisiana that you would measure your boundary line from?

A. Well this map does not show it. If you go far enough. You can go through. After you pass California bay you can go through this pass there. The only place that I know of that I have struck *terra firma* I went through a place that they call Pass Fortuna. I think that went up towards Lake Leary. You can go with a schooner in six miles of the shell beach road.

Q. You have already reached the conclusion that Mississippi ought to get this territory down there that you have just designated, including that country from Nine Mile bayou, going east as far as the eastern extremity of Isle à Pitre, because you believe that Mississippi extends 18 miles from her shore line?

A. Yes sir.

Q. And it is entirely on this theory is it not, that you think she ought to get this?

A. Yes sir, I do because I believe that is her boundary.

Q. Now I ask you if you were called upon to define and give Louisiana's boundary line, giving her three leagues from her coast, where would you start her line from?

A. I would start her line from what you would call *terra firma* Land. Not this marsh.

Q. Well now, where is that point. Is it on this map before you?

A. No sir, it is not.

Q. You don't see on this map any point from which you would start Louisiana's boundary?

A. No sir, not on this map.

Q. The one before you?

A. No sir.

Q. This map is designated as Mississippi "A"?

A. Yes sir.

Q. Then according to that would not you draw a straight line from Pearl river due south 18 miles until you reached a point immediately west of the southernmost; the red line indicating the southern boundary of Mississippi?

A. I don't really know how that would be. I don't know anyabout this country. When it reaches this corner where it stops I don't know how far it is from the main land, or Lake Borgne. I don't know any thing about this country west of Nine Mile bayou. I don't know any thing about that.

Q. What would you do with the intervening space between the mouth of Pearl river and the red line, which is indicated on this map as being the southern boundary line of Mississippi. You have got to have a starting point, have you not?

A. What would I do with this intervening space?

Q. Starting from Pearl river?

A. Are you asking me as a witness or an expert?

Q. You have stated that you believed that this line which is marked red on this map, and which on this map would
1419 seem to indicate the southern boundary of Mississippi. You say that you have reached the conclusion that that is the southern boundary line of Mississippi because it is 18 miles in your opinion from the shore?

A. Yes sir, due south.

Q. I say where would you find your western boundary line starting from Pearl river?

A. That is what I say. I say I don't know anything about this. I don't know how this Louisiana shore runs here on this western line as marked on this map.

Q. You have no idea where the Mississippi and Louisiana line is on the west?

A. On the western boundary because I don't know how wide this Lake Borgne is, but I do believe this. That it is more than nine miles from this red line to what I would consider *terra firma*, or what I would call the coast of Louisiana. I believe that it is more than nine miles to the woods.

Q. You mean the main land by *terra firma?*

A. Yes sir, the main land and not the marshes.

Q. Have you ever known of any store being at Three Mile bayou. Kept there?

A. No sir. I did know that there was a travelling store on flat boats. I know a couple of boys from Biloxi. I don't know whether it was a blind tiger or what it was. They had a floating palace out there.

Q. It was not on the land?

A. No sir.

Q. Who were they?

A. Masters were the young fellows' names. One was named Toney. I don't know what the other was named.

Q. That was a blind tiger on the water was it?

A. Yes sir, on the water.

Q. Did I understand you to say Captain that you went with your father in 1858?

A. In 1858. I was quite a boy.

Q. Into this Louisiana marsh country?

A. Yes sir.

Q. By means of Three Mile bayou?

A. No sir, Nine Mile bayou.

Q. How far down this bayou did you go?

A. I was young then but the captain said that we were in Bayou Treasure. That is where he had his traps located. He was a trapper.

Q. What did you stay on at that time?

A. On the boat. We lived on the boat.

Q. Altogether?

A. Yes sir, on the sloop.

Q. You have testified have you not that there is a sailing channel from the mouth of Pearl river going out to deep water in the Gulf, which passes by Cat island and Isle à Pitre have not you?

A. Yes sir.

Q. Is that the deepest channel in this direction?

A. Yes sir, I think it is.

Q. The channel that you see marked on this map, or line rather. The marked line claimed by Louisiana in her original bill. Is that the channel that you speak of as the deep channel?

A. Yes sir, that is where they come from the outside. From the Chandeleur islands.

Q. That is the sailing channel?

A. Yes sir, the sailing channel.

Q. What depth of water is there in this channel?

A. 12, 14, 16, 18, and in some places 28 feet of water.

Q. That whole distance?

A. No sir, not the whole distance. When we get up here towards Half Moon island it gets shallower then.

Q. What is the depth there?

A. That I could not say. I never run on the large vessels. These

large schooners running down to Florida. I have noticed that they went that course.

Q. Did they go up into Pearl river?

1420 A. Yes sir, and some of them went up into the basin at New Orleans.

Q. I mean were they such vessels as could go up into Pearl river?

A. No sir, not this Pearl river. They would go through the Rigolets and get there, and then turn to the right. That is through West Pearl river. Now East Pearl river is generally used by crafts coming back light.

Q. But there is a channel to East Pearl river is not there?

A. Yes sir, there is a channel there now. There has always been a channel there.

Q. When I say channel I don't mean simply for the purposes of light draught. What draught vessel could come up that channel to East Pearl?

A. Right now?

Q. At mean season?

A. A vessel drawing six and a half or seven feet could go through there now.

Q. Is there any time that a vessel drawing more than that can go through there?

A. I don't know any thing about the larger draught vessels. I have not gone on them. There are very few oyster boats that draw more than five and a half feet. Very few of them. Some, however, draw more than that, but as a rule five feet is considered a pretty good size boat.

By Gen. McCLURG:

Q. What is the average draught of the oyster boat?

A. Say five feet is about the average.

By Gen. GUION:

Q. This person by the name of John Kennedy that you spoke of as having been drowned was found and brought here to Biloxi; the body was was not it?

A. Yes sir.

Q. You don't know of your own personal knowledge where this body was found do you?

A. No sir, I do not.

Q. You don't know that a person was drowned of your own personal knowledge?

A. No sir, not of my own personal knowledge I do not.

Q. You say that the case of the two persons charged with committing the crime of drowning him was tried here?

A. If you will allow me I will explain here why they were arrested and brought here. The young man was drowned out there, but there were quite a number of fishermen out there when the body was found that held an informal inquest over the body.

Q. Where?

A. Out at Isle à Pitre. There was no officer there. Just among themselves. In examining the body they noticed some marks as though he was cut in the neck before he was buried. Some of these fishermen came and reported these facts here and others reported that they had heard some dispute or some thing on this boat. In order to satisfy themselves there was a crowd went out from Biloxi and disinterred the body and brought it over here. In the mean time these two boys were arrested.

Q. What two boys?

A. The Kennedys. The two brothers of the drowned man, and the body was brought in here and examined, and these boys were put under arrest and tried before the justice of the peace, and the coroner's inquest said that these wounds were caused by the body being cut by the shells as it drifted ashore and the boys were released.

Q. They were released?

A. Yes sir.

Q. They were never tried then?

A. Yes sir, they were tried and acquitted.

Q. They were regularly tried?

A. Yes sir, the two boys are living now.

Q. You don't know as a matter of fact where the drowning took place.

A. No sir, I don't know. I was not out there and I don't know any thing about where it occurred.

Q. Then the drowning may have taken place in Mississippi waters and the body may have been found at Isle à Pitre and buried there, and the parties tried here because of his having been drowned
1421 in Mississippi. Could not that have been the case?

A. The boys were fishing at Creole gap at Isle à Pitre when this happened.

Q. That is what you heard?

A. That is what the two boys told me, but of my own knowledge I don't know anything about it.

Q. Where are those boys Captain?

A. They are here in Biloxi.

Q. So I understand you to say that when you first knew Nine Mile bayou that it was in 1858?

A. Yes sir, that is the first time that I went through there.

Q. At that time Nine Mile bayou was about how wide?

A. That has been a long time ago.

Q. Excuse me, but I understood you to say 150 yards.

A. I think I said 150 yards. It is a mighty hard matter to judge distance on the water. You may think that it is 150 and it may be 300. It is a hard matter to answer that question, because the water is very deceiving.

Q. Do you know what point, measuring from the shore line of Mississippi going south you would reach, without referring to the

map, as the point of division; the line of division between Louisiana and Mississippi?

A. What? Sailing in a certain direction?

Q. If you would go south 18 miles?

A. Well it would all depend upon where you would start from on the main land.

Q. I will take this point. Taking a point right opposite Gulfview. What point is there in the Louisiana marshes that would be 18 miles from that point?

A. Well that would be a hard matter to say if you started from Gulfview with a sailing vessel.

Q. I mean a line due south?

A. A direct line?

Q. Yes. That is what I understand to be the theory that you have given us?

A. You mean in my opinion where would it strike?

Q. Yes sir, what point. I am speaking of your own recollection from the country down there without reference to the map. If you know what point in your own mind would be reached as a dividing line between the two States?

A. Well if you took from there you would strike perhaps a little to the westward of Indian Mound bay. Out there some where. From Gulfview you would pass perhaps a little to the east of Half Moon island or very near it. You would pass to the east of it. Yes sir, you would pass to the east of it on the line. Of course I could not give you exactly where you would strike out in the marsh.

Q. Captain, how wide is Nine Mile bayou now?

A. I have not been in Nine Mile bayou for twenty years. As I say most of our fishing was done through this portion of the country (showing location on the map).

Q. How wide was Three Mile bayou when you first knew it?

A. When I first knew it. It has not been so long that I have known Three Mile bayou. I have only gone through there twice. I went through there in that steamer, but I never paid much attention to that. I went through there but I never gave it much attention.

Q. When was it that you first went through Three Mile bayou?

A. I went out there in 1890 after the oysters were all killed.

Q. Have you ever been there since?

A. No sir, not through Three Mile bayou.

Q. You did not know how wide it was at that time?

A. No sir.

Q. Can you give us an approximate as to how wide it was at that time?

A. No sir, I might not even have been on deck when we went through there.

Q. Do you know how wide Turkey bayou was when you first knew it?

A. Turkey bayou was about, I don't know the number of feet.

I am a poor hand to judge the distances on water. I don't think Turkey bayou when I went through there was over 100 yards wide. 80 or 100 yards.

1422 Q. When was this Captain?

A. It must have been about in the seventies when I was out there.

Q. In the seventies?

A. Yes sir.

Q. Have you ever been there since?

A. No sir, I have not been there since.

Q. Do you know anything about the width of Grand pass?

A. Grand pass, the last time I was there in the year of the storm of 1893, I suppose that the mouth of it must have been nearly a quarter of a mile wide. After you once got in the mouth it was a half a mile wide, Grand pass is that wide in some places.

Q. Was there never a time in your knowledge when it was narrower than that?

A. Well the mouth of it might have been a little narrower where the shell mounds on the east side were. I think that they washed away a little bit. On the east side of Grand pass, it might have washed away a little.

Q. Do you remember Isle à Pitre before Creole gap was created?

A. I recollect Isle à Pitre many years ago, but I don't know so much about Creole gap. I never had any occasion to go down there. I don't know much about it.

Q. Don't you know as a fact that Creole gap did not exist at one time?

A. I have heard so. I have heard that it was dug out by hand.

Q. Do you know how wide it is now?

A. Yes sir.

Q. How wide is it?

A. Well the outside of it is a quarter of a mile.

Q. What do you attribute the widening of that Creole gap and this Three Mile bayou to?

A. The currents.

Q. What sort of currents?

A. The strong currents washing out there at Creole gap.

Q. Is St. Joseph island still in existence?

A. I don't think it is.

Q. Is it not gone?

A. I think it is sir.

Q. Do you remember when it was in existence?

A. I do yes sir.

Q. How long ago was this?

A. About 18 or 20 years ago.

Q. What caused it to disappear. Do you know?

A. It was the waters.

Q. Storms?

A. It gradually washed away all the time there by the currents.

There were a good many rocks there and they seemed to wash aw there.

Q. Do you know an island called Round island just to the west Half Moon island?

A. No sir, I don't know much about that country. I have bee to Half Moon. I don't know what they call Round island. I don recollect that.

Q. Do you know anything about Half Moon island?

A. I have been on Half Moon island, yes sir, and fished oyste there. Banks of oysters east of Half Moon I have fished on.

Q. You have spoken of this land lying down here Captain throug which this red line indicating the southern boundary line of Missi sippi is drawn as being called the Louisiana marshes. Do you kno why that name was given to them?

A. The origin of it I can not say, but I would naturally suppo on account of its bordering on the lines of Louisiana. Being ju outside the waters of the Mississippi sound and bordering on Louis ana they were called Louisiana marshes, I suppose.

Q. They never have been spoken of as islands have they?

A. By whom do you mean?

Q. By any one that you know of?

A. It is all islands from Raccoon island to Isle à Pitre.

Q. But they have never been designated or called Louisian islands or Mississippi islands. They have just been known as th Louisiana marshes?

1423 A. Neither have Cat island or Ship island been designate as Mississippi islands. They have a name for them.

Q. I understand. I asked you as a matter of fact. Is it not a fa that they have always been known as Louisiana marshes?

A. Yes sir.

Q. And put in that name?

A. That section of country has been known as Louisiana marsh from time immemorial as far as that is concerned.

Q. Captain, where have the canners been getting their oyste principally for canning purposes. The canners at Biloxi and oth places along the Mississippi coast?

A. In late years, or how far back a period?

Q. Well you might say for the last fifteen years?

A. There has been a considerable portion of the oysters from Pa Christian reefs over here. They have gotten a great many from th Pass Christian reefs, and a great many from what is called Bayo reefs, but from the Pass Marianne Shoal banks and Half Moon is and, and there are a great many reefs down near St. Joseph, an then over to Isle à Pitre, and between Isle à Pitre and Cat islan that was formerly the finest kind of reefs. On either side of th Ship channel. Grand pass furnishes a great many oysters, and i side of Grand pass, and then through this section of the country he in Karako bay, and Cranetown, and Brush island and Martin islan and then the freighters they used to go through Three Mile bayo

and buy them from the fishermen in Karako and Bayou Boudreaux they used to call it, and small boats would fish through that section of the country and bring them to the larger boats.

Q. In what part of the country?

A. In this disputed territory inside of the marsh.

Q. Is it not a fact that the quantity of oysters taken from the Louisiana marshes has increased very perceptibly within the last few years and taken to the canners along the Mississippi coast?

A. No sir, I don't think so.

Q. You do not?

A. No sir, the most of our supply that we have been getting for the canners have been from Pass Christian and Cat island. In that section of the country.

Q. What class of persons use the oysters then that are taken from the Louisiana marshes?

A. A great many of them were used for the raw shippers.

Q. Are there any shipments of that kind along the Mississippi coast?

A. A few. I suppose there are a half dozen of them.

Q. At different points along the Mississippi coast?

A. Yes sir, from Pass Christian to Pascagoula.

Q. Straight west from Pass Christian?

A. Yes sir, from Pass Christian to Pascagoula.

Q. So if I understand you correctly the canners have been getting the principal quantity of their oysters from the territory not in dispute between Mississippi and Louisiana, and those engaged in shipping raw oysters have been engaged in getting their principal quantity from the Louisiana marshes?

A. Before this neutral zone was declared yes sir.

Q. Prior to that time?

A. Yes sir, prior to that time.

Q. And these people shipping raw oysters have been getting their oysters down in this disputed territory?

A. Yes sir, right in this disputed territory that Mississippi claims now.

Q. How long have they been getting their oysters down there?

A. ——.

Q. How long have you been getting oysters down there?

A. We went into the business in 1874, but we got the bulk of our oysters from what is now defined as Mississippi territory.

Q. Are you engaged in the raw oyster business?

A. Yes sir, I am.

Q. I thought that you were a canner?

A. I am both. Yes sir.

Q. Are there any natural oyster reefs along the Mississippi coast in that part of the water not in dispute between Mississippi and Louisiana?

1424 A. North of this channel?

Q. Yes sir, north of the channel.

A. Yes sir.

Q. A number of them?

A. Yes sir, quite a number.

Q. Is there not a very large area of oyster territory in the reefs starting from Pascagoula and coming west as far as Pass Christian?

A. No there are very few between say about opposite Pass Christian and Pascagoula. There are very few oyster reefs. Very few.

Q. Are there not good bedding grounds all along there?

A. There has been many a thousand dollars lost there.

Q. Are not there good bedding grounds in this neighborhood? In the neighborhood of Biloxi?

A. No sir, there are some few reefs at the mouth of Pascagoula river, and some few reefs around the mouth of Back bay and Biloxi, but not to any great extent.

Q. They are pretty much exhausted are not they?

A. No sir, there never was much of a reef. It was never very extensive.

Q. Do I understand you to mean that there are no oysters of any consequence?

A. There are some, but not until you get to Pass Christian, and then commences the oyster territory.

Q. Going east?

A. Going west.

Q. West?

A. Yes sir, going west and south.

Q. Towards Bay St. Louis?

A. Towards Bay St. Louis and the south yes sir. When you get opposite Pass Christian you commence to strike the oyster country. The oyster country is Pass Christian and Waveland and Gulf View and St. Joseph and Half Moon, out towards Cat island. All through that section of the country is where the oyster reefs are. If you leave Cat island east you don't get to the oyster reefs until you strike the mouth of Back bay of Biloxi. All in that section of the country there are no oyster reefs. There are no oyster reefs from Biloxi to Pass Christian.

Q. Is there nothing in there?

A. That I don't know sir.

Q. Is there nothing in oyster fishing coming on between Biloxi and Pass Christian?

A. Not that I know of, no sir.

Q. What difference is there in the reefs from Pass Christian going west as compared with what they were formerly. Are they depleted?

A. No sir, I don't think they are. We have gotten as many oysters from our boats as we ever did. I packed more oysters last year than I did before. I don't know that they have become any less.

Q. You are being supplied by oysters taken from that part of the water that is not in dispute between Louisiana and Mississippi?

A. No sir, I get two thirds of my stock that I put up, I get it from this section around Half Moon.

Q. A part of the area that is in dispute?

A. Yes sir, I get two thirds of my stock from there.

Q. How long have you been getting your oysters from that section?

A. I have been getting them there for about two years.

Q. Previous to this time where were you getting them?

A. All through this Mississippi sound there, Pass Christian and Cat island and westward.

Q. Why don't you continue getting them there now?

A. Because I can get better oysters out here at Half Moon.

Q. Is it not a fact Captain that all of this country you have shown us on this map from Pass Christian going westward is exhausted?

A. No sir, there are plenty of oysters there yet. This year we did not get so many over there but from the simple fact that this has been a very dry season and the oysters are salty and poor, and therefore we find oysters as near to the mouth of Pearl river as we could. Because the oysters were in much better condition. They were fat.

1425 Redirect examination by Gen. McCLURG:

Q. Do you remember the name of the justice of the peace that tried the Kennedy boys?

A. Yes sir, it was Lyman B. Holly.

Q. Where is he now. Is he living or dead?

A. No sir he is dead.

Q. Do you know how long he has been dead?

A. He has been dead about three or four years.

Q. He was a justice of the peace, was he?

A. Yes sir.

Q. Of what county?

A. Harrison county.

Q. Mississippi?

A. Mississippi.

Q. He was regularly elected, was he?

A. Yes sir.

Q. And held office under the law?

A. Yes sir.

Q. Do you know any thing about the records of his office?

A. I think that they were destroyed by fire.

Q. When?

A. About two months ago.

Q. His records were destroyed by fire?

A. Yes sir.

Q. When you spoke awhile ago of neutral ground did you mean the territory agreed upon by the oyster commission to be neutral ground for both to fish in until this suit was settled?

A. Yes sir.

Q. From Malheureux point to Isle à Pitre?
A. Yes sir.
Q. Under the agreement of the oyster commissions of Mississippi and Louisiana, Mississippians were not to go into the marsh lands until this suit was settled?
A. No sir.
Q. But both sides might go into this other land?
A. Yes sir.

And thereupon the commission took — until tomorrow morning at nine o'clock.

In the Supreme Court of the United States.

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI. } No. 2.

And thereupon the commission met Friday morning, June 3rd, and the following testimony was taken towit:—

JOSEPH KENNEDY, a witness introduced on behalf of Mississippi, being duly sworn, testified as follows, to wit:

Q. Was John Kennedy your brother?
A. Yes sir.
Q. Where is John?
A. He is dead.
Q. When did he die?
A. On October 26th, 1886.
Q. What was the cause of his death?
A. He was drowned.
1426 Q. Where was he drowned?
A. Out at white and black buoy outside of Cat Island spit. That is the bar at Cat island.
Q. Is Louis Kennedy your brother?
A. Yes sir.
Q. And John Kennedy that was drowned out there was also your brother?
A. Yes sir.
Q. Is the place where he was drowned in the neighborhood of Creole gap?
A. It is about five miles from Creole gap where he fell over board.
Q. On which side of the deep water channel?
A. On the south side.
Q. On the south side?
A. Towards the marsh.
Q. Were you and your brother Louis charged with the murder of your brother John?
A. Yes sir.

Q. Were you tried on that charge?
A. Yes sir.
Q. Where were you tried?
A. Right here. Right up there where Mr. Elmore used to have a bar room. Right over here in Biloxi.
Q. Before whom were you tried?
A. Judge Holly.
Q. Who was Judge Holly? What office did he hold then?
A. I believe that he was the justice of the peace or coroner. I could not say which.
Q. Of what county?
A. Of this county. And State of Mississippi.
Q. Harrison county and State of Mississippi?
A. Harrison county and State of Mississippi.
Q. You were regularly arraigned before him on the charge of murder?
A. Yes sir.
Q. And what was his judgment?
A. Not guilty.
Q. Was the body of your brother recovered?
A. Yes sir, it was found in Creole gap.
Q. In Creole gap?
A. Yes sir, in Creole gap.
Q. Where was it buried?
A. It was first put away right there in the marsh.
Q. Near Creole gap?
A. In Creole gap.
Q. On what land.
A. Right there in the marsh.
Q. What do you call it?
A. Nothing but in the marsh. That is all I can say. Right in there.
Q. On Isle à Pitre?
A. No sir, it is right on the side of Creole gap. He was hauled up there, or dragged up there like a dog we might almost say.
Q. Was the body afterwards removed?
A. Yes sir, I went myself with my grandfather and cousin and uncle and took it up and brought it here and Mr. Jones the sheriff went too.
Q. So that it is buried finally in Biloxi?
A. Yes sir.
Q. That was in October 1886?
A. Yes sir, 1886.
Q. And the place where he was drowned is on the south side of the white and black buoy?
A. The white and black buoy. That is the general mark outside of Cat island.
Q. Is that the channel that runs out here and is commonly known as the deep water channel?

A. Yes sir.
Q. Who was the constable of this court?
A. Mr. Holloman was the constable.
Q. Where is he?
A. He is dead.
1427 Q. Mr. Holloman the constable is dead also?
A. Yes sir.
Q. Do you know any thing about the records of that court?
A. No sir, I do not.
Q. What was your occupation in 1886?
A. Fishing oysters.
Q. What is it now?
A. The same thing.

By Gen. GUION: To all of the evidence given by the witness concerning the arrest and trial of the witness on the charge of having been guilty of murder of his brother John Kennedy, the State of Louisiana through her counsel objects on the ground that the best evidence as to the arrest, examination and trial of the witness is the record itself, and in default of evidence of the destruction of the record no secondary evidence can be introduced, all of which objections the counsel for the State of Louisiana made timely.

Q. I understood you to say that you had been continuously in the oyster business since that time?
A. Yes sir.
Q. How long altogether have you been in the oyster business on the Mississippi sound and in the neighborhood of the Mississippi coast?
A. Twenty-five years.
Q. During that time where have you been taking oysters?
A. Well sir we do most all of our oyster work from Creole gap up to Pass Christian. All about and around in there up to about Half Moon.
Q. Any other place that you have taken them?
A. No sir.
Q. Do you take any in the neighborhood of Grand pass?
A. Well that is all about in the same neighborhood.
A. That is in the same neighborhood?
A. Yes sir.
Q. Have you taken oysters about Grand pass?
A. Yes sir.
Q. How long have you been doing that?
A. This winter we have taken some over there, and then we have fished in and about Greque a good deal too. That is right along side of Grand pass.
Q. Do you know where Turkey bayou is?
A. Yes sir.
Q. Have you taken any oysters there. In that neighborhood?
A. No sir.

Q. Do you know where Three Mile bayou is?
A. Yes sir.
Q. Have you ever taken any oysters in that neighborhood?
A. No sir.
Q. How about Nine Mile bayou?
A. I have been there but I have never taken any there. Half Moon would be some where abreast of it. In the open and outside we did fish there this winter.
Q. When did you first take oysters in the neighborhood of Half Moon?
A. This winter.
Q. Is that the first time?
A. Yes sir.
Q. In what portion of this water did you take oysters 25 years ago?
A. Creole gap.
Q. Has that been your principal fishing ground?
A. Yes sir, from there running in towards Pass Christian.
Q. Where are the best oyster places in which you have fished during these 25 years?
A. I have found them best this winter off of Half Moon.
Q. Well before that?
A. Creole gap used to be about as good as we would require.
Q. How wide is Creole gap do you think?
A. I could not tell you that. It would be a little space, I suppose of from about here to the end of the foot walk out there.
1428 Q. How many yards or feet is that?
A. I could not tell you. I suppose that it is about one thousand feet wide or something like that.
Q. Was it as wide 25 years ago as it is now?
A. No sir, it keeps getting wider.
Q. Is there any industrial life of any kind such as farming, gardens, or stock raising or anything like that about Creole gap along there?
A. No sir.
Q. Any habitations of any sort?
A. No sir, none that I know of, except there was a house out there at the time they planted oysters they stayed in it. There is only a watchman.
Q. A watchman stays in the house?
A. Yes sir, at Door point and one at Turkey bayou.
Q. What sort of houses are they Kennedy?
A. Nothing but little barns.
Q. Has your right to take oysters south of this deep water channel near to Cat island channel and along there about Creole gap ever been questioned by anybody?
A. No sir.
Q. You never have been molested by the State of Louisiana?

A. No sir, no more than winter before last when we were stopped in there.

Q. That was by agreement between the two oyster commissions?

A. Yes sir, the patrol boat at that time stopped us there. If I am not mistaken the load is there yet. He stopped us before we got our load but he made us leave them there just the same.

Q. Was this before or after this suit was started?

A. It was published in the papers, but at that time the patrol boat got to us.

Q. Was that in the papers?

A. About Louisiana owning that portion of it. Yes sir, he sure hooked us right.

Cross-examination.

By Gen. GUION:

Q. You used the word patrol. What did you mean by that?

A. He stopped us. He sure did.

Q. Where was it that this patrol boat stopped you?

A. In about Bayou Greque.

Q. When was that?

A. Winter before last.

Q. The winter of 1902?

A. Yes sir.

Q. Did not you say you fished down there last winter?

A. No sir, not in Creole gap. Not Creole gap, but down at Half Moon.

Q. Is not Creole gap in that part of the territory that it was agreed that the Mississippi people should not fish in until this suit was settled?

A. No sir.

Q. Where is that territory?

A. That line is on the west side of Grand pass; all east of that Mississippi owns. Supposed to be the Mississippi side. West was Louisiana.

Q. Well you understood then did you that west of Grand pass and all down in what is claimed the Louisiana marshes, there should be no fishing until this suit was settled?

A. Yes sir.

Q. And you understood that east of Grand pass was not included in the agreement. You understood that east of Grand pass the Mississippi people were to continue to fish if they wanted to?

A. Yes sir, to continue to fish.

Q. You spoke of the patrol boat having stopped you two winters ago?

A. There is the man that I was working for over there.

Q. Will you please tell us what patrol boat you spoke of?

A. Well the name was the Toiler. The steamboat Toiler.

1129 Q. Who did she belong to?

A. She belonged to Mr. Sweatman, but the gentlemen aboard I didn't know at all. They were from Louisiana.

Q. They were Louisiana people?

A. Yes sir.

Q. What did they tell you there?

A. They told us to stop. That we had to take out a license to fish oysters in that territory.

Q. You had no license?

A. No sir, not for that territory.

Q. Did you have any license at all?

A. For Mississippi.

Q. Where was Mississippi's license? Where did it authorize you to fish?

A. From the Grand pass all east.

Q. From Grand pass east?

A. Yes sir.

Q. Have you got that license with you?

A. No sir, it is on the boat you know.

Q. Where is that boat?

A. It belonged to Mr. Desport's brother at that time.

Q. Where is the license?

A. I suppose it is on the schooner. It is torn up by now I suppose.

Q. Could not you produce it? Could not you give it to Gen. McClurg and let the State of Louisiana look at it?

A. These things they tear them all up. They are no good for more than one season and we don't take any care of them after that.

Q. Where did you get this license from?

A. Gulfport.

Q. Who gave it to you. What authority gave it to you?

A. Mr. Hughes is the man that issued the license if I am not mistaken at Gulfport at that time.

Q. That was to fish oysters where?

A. In Mississippi.

Q. You don't mean up about Hazlehurst. I am speaking about some particular place. In what part of Mississippi did you understand that you had the right to fish oysters?

A. Any where from the west side of Grand pass running east.

Q. Did these people who stopped you from fishing oysters there in the winter of 1902 tell you that they were representing the State of Louisiana?

A. Yes sir.

Q. And that was in Creole gap where you were fishing then?

A. No sir, I was in and about Bayou Greque.

Q. That is south of Grand pass is it not?

A. No sir, it is west of Grand pass.

Q. Southwest is it not?

A. Yes sir.

Q. And it is down in what is called the Louisiana marshes
A. Yes sir.
Q. And that was in Creole gap where you were fishing then
A. No sir, I was in Bayou Greque, I was just over the line.
Q. That is south of Grand pass is it not?
A. No sir, it is west of Grand pass.
Q. Southwest is it not?
A. Yes sir.
Q. It is down in what they call the Louisiana marshes?
A. Yes sir, that is what they call them yes sir.
Q. Mr. Kennedy, won't you show me on this map if you can w
it was that your brother was drowned?
A. I say that this was in Creole gap here (witness shows on
map).
Q. He was found in Creole gap?
A. Yes sir, he was found in there.
Q. Was he drowned in there?
A. He went over board south of the white and black buoy al
Cat Island channel.
Q. Where is that?
A. It is about half way across you know of the water.
Q. It is about half way across from what?
A. From Cat island to the marsh.
1430 Q. This is the end of Isle à Pitre that I am now pointi
out to you. Do you know anything about that?
A. Yes sir.
Q. This place that I am pointing out to you on this map mark
Exhibit A is Cat island?
A. Yes sir.
Q. Now will you show me please as near as you can where yo
brother fell off the boat? Fell overboard?
A. I could go and show you the place out in the channel.
Q. What buoy did you speak of?
A. The white and black buoy just across the spit.
Q. Who put it there?
A. The United States Government I suppose.
Q. Is it the buoy that marks the channel?
A. Yes sir.
Q. Were was it with reference to that buoy that your brothe
drowned?
A. He was drowned south of the buoy.
Q. Where is the Cat Island spit that you spoke of?
A. It is a bar that leads out from Cat island in the shoal wate
After we reach that we go into the deep water again.
Q. How far south of this buoy was it that your brother went over
board?
A. I could not tell you that. It was more than I could say. I
was at night.
Q. It was at night?

A. It was at two o'clock in the morning.
Q. Was it dark?
A. It was sure and blowing a gale from the north.
Q. How did he fall over board?
A. He put his foot on a rope and it rolled and over board he went.
Q. How do you know that you were south of the buoy at that time?
A. I passed it. Certainly I passed it and saw it.
Q. Which direction were you going at that time?
A. I was running south.
Q. Did you have a compass?
A. Sure. That is the only thing that I could guide by.
Q. Who was with you at that time on the boat?
A. Two brothers.
Q. Who had the compass?
A. I did. I was the pilot.
Q. Well now after this happened you say that your brother's body was found in Creole gap?
A. Yes sir, Creole gap.
Q. How long afterwards?
A. Three days I believe. Three or four days. I think that it was three days that he was found.
Q. Were you there when it was found?
A. No sir, I was hunting for it, and there were some men that were working in Creole gap at that time that were the ones that picked him up.
Q. Did they report it?
A. Yes sir, they seen us out some distance and they blowed for us and we went to them.
Q. Who informed the authorities about it over here? The law officers. Who notified the law officers here at Biloxi?
A. I did when I brought him here. I gave myself up sir.
Q. And the examination was had over here?
A. Yes sir.
Q. And they turned your brother and yourself loose?
A. Yes sir.
Q. And this was in 1886?
A. Yes sir, in 1886.

Redirect examination:

By Gen. McCLURG: You spoke about the license issued by the authorities of the State of Mississippi to fish oysters in this State. Was this the license issued by the Mississippi Oyster Commission?

1431 A. Yes sir.
Q. It was not an United States license?
A. No sir, it was the oyster commission license.

Q. The oyster commission license of Mississippi?
A. Yes sir.
Q. It did not designate any territory except west of Grand pass?
A. Grand pass. And I don't believe it had that in it.
Q. Just to fish oysters in Mississippi?
A. Yes sir, to fish oysters in Mississippi.
Q. You don't know where this license is?
A. No sir, but I don't know why they could not get some of them. Now the license run the same thing.
Q. You could not get that license?
A. No sir, the boat has been sold and everything. After the season is over we don't take any care of them.
Q. That is two years ago?
A. Yes sir.
Q. And this agreement that you spoke of west of Grand pass was an agreement between the Oyster Commission of Louisiana and the Oyster Commission of Mississippi?
A. Yes sir.
Q. To stand until this suit was ended?
A. Yes sir.

LOUIS KENNEDY, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Mr. McCLUNG:

Q. Your name is Louis Kennedy?
A. Yes sir.
Q. And you are a brother of Joseph Kennedy?
A. Yes sir.
Q. What is your occupation Mr. Kennedy?
A. I am working at the ice factory at the present time.
Q. You were a brother of John Kennedy?
A. Yes sir.
Q. What was your occupation in October 1886?
A. I went out oystering then. I was in the oyster business.
Q. You were in the oyster business?
A. Yes sir.
Q. Where?
A. Out here in the marsh.
Q. Were you on the boat from which your brother was drowned?
A. Yes sir.
Q. Were you and your brother Joseph tried for the murder of your brother John?
A. Yes sir.
Q. Where were you tried?
A. Here in Biloxi.
Q. Before whom?
A. Judge Holly.
Q. Where is he?

A. He is dead.
Q. Who was the constable?
A. Mr. Holloman.
Q. Where is he?
A. Dead.

By Gen. Guion: To the above evidence and to all other evidence of the same character, whether given by this witness or any other witness, testifying to the same facts counsel for the State of Louisiana objects on the ground that no evidence can be given in respect to the arrest or the trial of the parties charged with the
1432 murder of John Kennedy, except it be the record evidence of the proceedings had in the matter. That no oral evidence can be given concerning the trial or the examination in that matter unless proof be first offered showing the destruction of the primary evidence.

Q. Where were you fishing oysters in 1883? What part of the country?
A. I had not fished any. That is the first trip that I went fishing in my life.
Q. That was your first trip?
A. Yes sir.
Q. Did you fish after that?
A. No sir, it was about a year after that before I went out. When I did go I went on the Vera for Mr. Lopez.
Q. Is that a boat?
A. Yes sir, a steamboat dredging.
Q. Where did you dredge?
A. Grand Pass reefs.
Q. Were you interfered with by anybody in your fishing out there anywhere?
A. Yes sir, they had some boats that came out there and spoke to the captain, but he never stopped.
Q. When was this?
A. It is about three years ago now. About three or four years ago now.
Q. You were acquitted by Judge Holly?
A. We were acquitted.
Q. Do you know where your brother's body was found?
A. Nothing more than what I was told. I was told that it was found in Creole gap.
Q. Was his body out there?
A. Yes sir, I went out there and saw it.
Q. Before it was brought to Biloxi?
A. I went out there and dug him up to be sure that it was him, and we came back here to get help. The other help went out there and got him and brought him back here.

Cross-examination.

By Gen. GUION:

Q. Mr. Kennedy, where was your brother drowned?
A. They told me that he was drowned off of Cat island.
Q. They told you. Who told you that?
A. My brother. He was the only one that saw this at this tim
Q. Who did you mean by saying us?
A. There were three brothers of us. One got drowned and t
other one was the one that told me about it.
Q. If you were there how come you not to know it?
A. Because it was the first time that I was out there.
Q. You did not know where you were then?
A. Certainly not. If I had gone over board I would have drow
too.
Q. You are not able to tell where you were although you wer
there at the time your brother was drowned?
A. No sir.
Q. You could not tell?
A. No sir, how could I tell when it was the first time that I wa
out there.
A. Well I don't know. I am asking you. Have you any idea
or would you have any idea as to where you were if your brother
had not told you?
A. He had told it to me that often. No sir. I would not know
if he had not told me.
Q. When was it that he told you?
A. He has told me so often.
Q. What did he tell you was the place?
A. He told me that he was drowned off of Cat island and he
marked it down in the Bible and made a record of it.
Q. He marked it down where?
1433 A. In the Bible.
Q. What is the entry in the Bible.
A. I can give you a copy of it. I just taken a copy of it.
(Witness shows a copy of the entry in the Bible to counsel.)
Q. Who made this entry?
A. An uncle of mine in New Orleans.
Q. What is his name.
A. His name was Henry Smith. He is dead now.
Q. He entered that in the Bible?
A. Yes sir, in the family Bible.
Q. In the family Bible of the Kennedy family?
A. Yes sir.
Q. Now what is marked in here are these words. "Drowned on
Wednesday, October 26th, 1886 at two o'clock in the morning at Cat
island. John Collaratt Kennedy"?
A. Yes sir.

Q. You say that you took that from your family Bible?
A. Yes sir.
Q. Whose handwriting is this in?
A. That is my little girl's. My daughter's handwriting.
Q. And the information on which your uncle made this entry in the Bible was given by your brother was it not?
A. Given by me. I wrote the letter to him and told him it was done.
Q. And you got your information from your brother?
A. Yes sir.
Q. Were you awake at the time your brother was drowned?
A. No sir, I was asleep in the cabin.
Q. You were asleep?
A. Yes sir.
Q. When did you find out that your brother had been drowned?
A. My brother called me up and told me that John was overboard, and I got up and went to him.
Q. What was the boat doing at that time?
A. She was sailing.
Q. Was the water rough when you went to get up?
A. It was not so rough but it was dark.
Q. It was dark?
A. Yes sir.
Q. Very dark?
A. Yes sir, pretty dark. I could not see very far ahead.

In connection with the testimony of this witness counsel for Louisiana now offers in evidence the memorandum of entry taken from the family Bible of the Kennedy family which was testified to by the witness and marked Exhibit "A" in connection with the testimony of Louis Kennedy.

Drowned on Wednesday October 26, 1866 at 2 o'clock in the morning at Cat island John Callavatt Kennedy.

Endorsed Exhibit A to cross examination in the testimony of Louis Kennedy State of Louisiana vs. State of Mississippi Filed June 3rd, 1904. William D. Ballard, commissioner.

Q. Mr. Kennedy, who reported to the authorities here the death of your brother? To the authorities here at Biloxi?
A. My brother did.
Q. Were not you arrested?
A. Yes sir, we were arrested. We came here and got help to go out and find him, and while we were in here they found his body and buried it, so my brother and I went and dug it up.
Q. Did the justice of the peace Judge Holly, ask you and your brother where your brother had been drowned?
A. Well he might have at that time, but if he had I could not have answered his question for the simple reason that I did not know.
Q. Did you hear him ask your brother where he was drowned?
A. No sir, I did not hear his evidence.

Q. You were separated?
A. Yes sir.

Q. You spoke just now Mr. Kennedy of having been
1434 stopped by some body from fishing oysters about two or three or four years ago?
A. Yes sir, that was the Mississippi authorities.
Q. That is the only time that you know that you have been stopped?
A. Yes sir.
Q. Where have you been fishing oysters?
A. Well I have not been fishing oysters but a little. In last winter I was fishing oysters with my brother down here at Half Moon island.
Q. Any where else last winter?
A. No sir, we fished there all of the time that I was with him. I was only there for a month or two.

Redirect examination.

By Gen. McCLURG:

Q. Mr. Kennedy, I want to call your attention to this little slip marked "Exhibit A" to your testimony in this case and ask you who copied this from the Bible?
A. My little girl. I told her to write it because she writes a better hand than I do. I asked her to make a copy of it.
Q. Who made this entry in the Bible?
A. I say that an uncle of mine in New Orleans made it. I wrote the letter to him and he taken it down.
Q. Did he put it in the Bible in New Orleans?
A. Yes sir.
Q. Did you see him do it?
A. No sir, but I know that he did it because there was only him and my grandmother there and she was too old. She could not write. She was too old.
Q. How come your uncle to state by this entry in the Bible that John Collarett Kennedy was drowned at Cat island?
A. Well that is just the saying; drowned at Cat island, but just exactly where I could not say.
Q. You just said Cat island?
A. Yes sir, I just said Cat island. You know very well that he could not get drowned on the island. He had to get drowned off of the island.
Q. You stated awhile ago that you did not know how far it was?
A. I did.
Q. And you don't know how far it was now?
A. No sir, I do not.
Q. And you did not know at the time you had this entry made in the Bible did you?
A. No sir.

Q. That was your first trip out?
A. Yes sir.
Q. And how long after that was it before you had this entry made in the Bible?
A. As soon as my case was here and gotten rid of, then we wrote the letter to my uncle, and my grand-mother. She is the one that raised me, and I wrote the letter to her to tell her that my brother was drowned. It might have been a couple of weeks afterwards.
Q. Joseph Kennedy, your brother was acting as pilot at that time was he?
A. Yes sir at that time he was.
Q. Had he been on the water longer than you had?
A. Yes sir.
Q. He was very familiar with it?
A. Yes sir, he was very familiar with it.
Q. Do you remember any buoys that night?
A. No sir, I was asleep.
Q. Were you asleep when your brother went over board?
A. Yes sir, I went to sleep about dark.
Q. Where were you when you went to sleep?
A. I was on the south side of Cat island.
Q. You were on the south side of Cat island when you went to sleep about dark?
1435 A. Yes sir.
Q. Which way were you travelling?
A. Southwest. We were making for Creole gap. That is the only thing that I remember.
Q. What time of the night was it that you and your brother were out there; that your brother John was drowned?
A. It was two o'clock in the morning.
Q. So you had been travelling from about dark when you went to sleep until two o'clock in the morning before you waked up? What was it that waked you up?
A. My brother called. He called me and told me that my brother had fallen overboard.
Q. You did not know then and you don't know now how far it was from Cat island?
A. No sir, I never have been over the same ground.
Q. You never have been over the same ground again?
A. No sir.

Here the commission took a recess for the dinner hour, and upon re-convening, with the same counsel present as this morning, the following testimony was taken to-wit:

JOHN WALKER, being duly sworn, testified as follows:—

Q. What is your age Mr. Walker?
A. I am going on 71 years of age.
Q. Where do you reside?
A. In Biloxi.
Q. How long have you lived here?
A. I have been located here and resided here permanently for the last 20 years: going on 21 years.
Q. Where did you reside before?
A. New Orleans.
Q. What has been your occupation for the last thirty years?
A. I have followed the sea since boyhood. I have been steamboating here since 1855.
Q. Are you familiar with the Mississippi sound between Pearl river and Pascagoula say?
A. Quite so. I held a pilot's license for all of these years. Master and pilot.
Q. Issued by authority of the United States?
A. Yes sir.
Q. Where was your license issued?
A. In New Orleans. I have got with me a copy of one issued. The first issued as master, and I have the 16th issued as pilot. Congress passed a law in 1872 requiring masters and mates to be licensed as well as pilots and engineers, and my pilot's license dates from 1856 and the master's license from 1872, covering all of these years.
Q. You have stated that you were familiar with the Mississippi sound east of Pearl river?
A. Yes sir.
Q. Are you familiar with what is commonly called the deep water channel that runs out of the Rigolets and Pearl river?
A. Yes sir, the deep water channel runs between Cat island, and then there are two channels with one each side of Merrilss Coquile. The other one south of that. The deep water channel would be south of it.
Q. How long have you been familiar with this channel?
A. Since 1856. That is I quit piloting in 1883, the winter of 1883. Then I retired from the water altogether, but I was at it constantly for about 27 years.
Q. That is the channel that has been buoyed by the United States Government?
A. Only recently. It was not buoyed in my days.
Q. Do you know when it was buoyed, Captain?
A. No sir I do not.
1436 Q. Could you say whether or not the deep water channel line has ever been regarded as the dividing line between Louisiana and Mississippi?
A. I never heard of it until this controversy arose between the

two States. I always heard and always considered that the boundary line was due south from Pearl river 18 miles. I always did so consider it and always heard it spoken of in that way until this lawsuit.

Q. Until this lawsuit?

A. Yes sir.

Q. What was the character of your steamboat, freight or oyster business?

A. Freight and passenger business.

Q. You were never engaged in taking oysters?

A. No sir.

Q. Do you know anything about this country that we call the Louisiana marshes?

A. I know the coast line only. I don't know anything about the inside. Not through the marshes, but I am familiar with the coast line.

Q. Are you familiar with the line from Malheureux point to Isle à Pitre?

A. Yes sir, all of the way around from the mouth of the Mississippi river, and from the passes of the river all the way around to Lake Maurepas, excepting as I say that I have never been in the marsh, except that I have been through Three Mile bayou, and once in the entrance of Nine Mile bayou from the eastward.

Q. What craft did you have in going through Three Mile bayou?

A. I had a small steamboat.

Q. How much did she draw?

A. Well she only drew about four feet, but I found seven feet of water in there.

Q. You found seven feet of water where?

A. In the entrance.

Q. You say that you went through Three Mile bayou?

A. Three Mile bayou.

Q. Where did you go Captain?

A. From Chandeleur into Lake Borgne.

Q. From Chandeleur sound through Three Mile bayou into Lake Borgne?

A. Yes sir.

Q. With a steamer drawing four feet?

A. Yes sir, she was a steamer.

Q. When was this?

A. I would have to refer to a memorandum to see. I think that t was about 1867 or 1868.

Q. Now look at this map, please sir.

A. I am not at all familiar with maps. I never used them even fter I was a licensed pilot.

Q. This is marked Exhibit "E" to this bill of complaint in this ise, and here is Three Mile bayou?

A. Yes sir.

Q. I want you to tell me how you travelled in going there?

A. Well we came up the coast and turned into the sound throug this bayou into Lake Borgne. Now that I was not familiar wit myself and I had an oyster fisherman who piloted me through tha bayou. I do not claim to be familiar with that at all, nor do I clai to be familiar with any part of the inner marsh.

Q. You came up the coast from the direction of the mouth Pearl river?

A. Yes sir.

Q. And went through this bayou into Lake Borgne?

A. Yes sir.

Q. Well that is in the Three Mile bayou, that is on the Louisian coast between Malheureux point and Isle à Pitre is it?

A. This fisherman took me through there and called that Three Mile bayou. No, that is not Three Mile bayou. The Three Mil bayou that we went through is up here somewhere in the neighbor hood of Isle à Pitre. I never did use charts in all of my piloting. I learned it from other pilots and by observation.

Q. Do you mean to say that you went through this bayou into Lake Borgne?

A. Yes sir.

Q. Does Lake Borgne extend to the east of Grassy island?

1437 A. I so consider it.

Q. How far east does Lake Borgne extend?

A. As far as Cat island pass.

Q. Where does the Mississippi sound begin on the west?

A. At St. Joseph on the west.

Q. Is Lake Borgne south of the sound? Mississippi sound?

A. Part of it.

Q. Have you ever noticed whether there had been any material changes in the Mississippi shore along east of the mouth of Pearl river?

A. Well the only change; there was not much change during my time, but there has some change taken place since. St. Joseph island is cut away some.

Q. Have you noticed any material change along the Louisiana marshes between Malheureux point and Isle à Pitre?

A. None there.

Q. When were you last through there Captain?

A. The last time was in 1883.

Q. You think that there had been no material changes from 1856 to 1883?

By Mr. DYMOND: Objected to on the ground that it is a leading question.

A. No sir, nor had there been any change on the east side of the marsh. No material change from 1856 to 1883. There was a slight change at Point Chico. Point Chico had cut away a little bit where it was exposed to the open sea.

Q. What part of the marsh is Point Chico at?

A. I would call that out about south east.

Cross-examination.

By Col. ZACHARIE:

Q. Were you in the employ of any regular line of steamboats?

A. Yes sir, at times. Of course I travelled on transient steamers around that part principally.

Q. Were you a captain on the old Geltz line of steamboats?

A. Not a captain. I was a pilot.

Q. That is prior to the Civil war?

A. Yes sir.

Q. Were you a pilot on the Morgan line after the war?

A. No sir.

Q. Those boats were running between New Orleans and Mobile were they not?

A. Yes sir.

Q. Now what was the draft of these vessels of the Geltz line?

A. Well the Creole was a light draft, she drew about five or five and a half feet and the Oregan and Cuba generally drew about six or six and a half feet of water.

Q. Now what channel did you follow after leaving the Rigolets?

A. We followed the channel—which way?

Q. Going eastward?

A. Going east, we followed the channel through St. Josephs, and up by Merrils Coquile and through Pass Marianne.

Q. How close did you run to the Mississippi shore. About?

A. Where do you mean? Very close to it at St. Joseph.

Q. I mean from the mouth of East Pearl on past the Malheureux islands and Marianne islands. About how far was this channel that you followed from the Mississippi shore. The main land?

A. Well I don't think at any time except in the middle of the sound that we were over three miles at the furthest. Some times much closer than that.

Q. Do you know what distance the main land was from the Louisiana marshes. What the distance is across there?

A. That varies a great deal too. Just tell me any particular point and I can get at it.

1438 Q. Well say at the east mouth of Pearl river?

A. Over to the marsh?

Q. Yes sir?

A. Well I would say right over on a due south line that it would probably be 11 or 12 miles.

Q. Now as you went on to the eastward until you passed Malheureux islands what would you estimate the distance between the same points. That I have just spoken of?

A. Would you call St. Joseph a part of it?

Q. Yes sir, and Round and Grassy islands?

A. Well it would be about eight miles.

Q. That was the recognized deep water channel was it?

A. Yes sir, Cat Island pass was. Yes sir.

Q. That channel branched off to the south east did not it?

A. Outside yes sir.

Q. Captain, what did you base your opinion on that the Louisiana marshes were a portion of the State of Mississippi?

A. Well on what I have always heard expressed. Whenever I heard it spoken of.

Q. Did you ever hear it discussed?

A. Yes sir, frequently, as late as 1867 I think at one time. I was then in the city of New Orleans and I thought at one time of getting a license as a Mississippi bar pilot. I thought that it extended even that far, and Mr. Henderson who was in the legislature here, we got him to introduce a bill, or he intended to introduce a bill, but he investigated it and he told us that the line only extended 18 miles south of the Mississippi shore. That Mississippi had no jurisdiction further than that. There were several of us citizens of New Orleans who were not bar pilots, and we could not get it from Louisiana, but we could get it from Pass Lucre which would be taken in by Mississippi if the line run the whole way. Mr. Henderson after investigating it told us that he could not do any thing. That the jurisdiction of Mississippi only run 18 miles south of Mississippi.

Q. When you spoke of a bar pilot you meant to the mouth of the Mississippi river?

A. Yes sir, to the mouth of the Mississippi river.

Q. Was it ever mentioned by Mr. Henderson or others that the jurisdiction of Louisiana extended three leagues or nine miles from this Louisiana marsh?

A. We never discussed that. This was in 1867 that I spoke of that Mr. Henderson told us this.

By Mr. DYMOND:

Q. Captain, will you kindly come around here and look at this map, which is called map No. 59. Will you see if you can find the mouth of Pearl river on this map?

A. Yes sir, here it is.

Q. Will you please designate in what direction from St. Joseph you find this mouth of Pearl river?

A. Well I never took the bearing directly.

Q. In a rough way. Approximately?

A. Well it would be east, north east.

Q. Well now don't you mean just exactly the opposite?

A. Yes sir, west north west.

Q. Well now if you were to come out of the mouth of Pearl river with the intention of going eastwardly would you or would you not go through what is called here Grand Island pass, between Point Clear, lower Point Clear and Half Moon island?

A. Yes sir.

Q. As you progress eastwardly what direction would you take as shown on this map?

A. Well I would run up clear by St. Joseph island and north east by east and clear Merrilas Coquile.

Q. Did you notice coming out of the mouth of this Grand Island pass a line with the sailing directions S. W. ½ S. Is that the sailing direction that you would take?

1439 A. No sir, I would go the very reverse. I would go E. ½ north.

Q. Now that was the channel in 1886 was it?

A. That was the channel.

Q. And it was for the purpose of passing to the eastward, north of Merril's Coquile was not it?

A. Yes sir.

Q. Well now was there any other channel in 1856 south of Merril's Coquile?

A. Yes sir.

Q. Will you please look at this line emerging from Grand Island pass, shown on map 59 and marked west ½ south and extending over eastwardly south of Merril's Coquile which I now point out to you?

A. Yes sir.

Q. And I ask you if this is the other channel that you would have gone through south of Merril's Coquile?

A. Yes sir.

Q. You will then notice this channel proceeds S. W. by W.?

A. I am going to the eastward. I was steamboating.

Q. You were going the exact reverse of these indications on this channel?

A. Yes sir.

Q. You notice where it comes to a point north of Porpoise shoal. That it runs south east from Cat Island channel?

A. Yes sir.

Q. Now is it this channel which we have just indicated extending from the mouth of Pearl river north of Half Moon island across Mississippi sound, south of Merril's Coquile, thence eastwardly, north of Porpoise shoals, between Cat island and Isle à Pitre, Was this channel in existence in 1856?

A. Yes sir.

Q. Was there any other channel that you know of by which you could get from the mouth of Pearl river out between Cat island and Isle à Pitre, into Chandeleur sound?

A. No other channel, but the bayou that I spoke of——

Q. Was there any other that would be commonly recognized as a deep water channel?

A. No sir.

Q. Now Captain, going back to your understanding. You never recognized or understood that to be the boundary line between Louisiana and Mississippi. What knowledge if any did you have as to what the boundary line of Louisiana and Mississippi is?

A. I did not have any more than any one expressing an opinion among others in a discussion.

Q. Well now please mention one person who expressed to you any opinion as to the boundary of Louisiana?

A. Well I could give you several. Capt. Ben Ames who was a pilot.

Q. Capt. Ben Ames?

A. Yes sir, he was a resident of New Orleans, and Capt. Jack Hoskins of Mobile, and Capt. Ben. Midget of Mobile.

Q. Now, what did they say to you?

A. Well I could not remember exactly what they said. They all expressed that that was the boundary line.

Q. Do you think that you understood my question?

A. Did not you ask me what they said to me?

Q. No, I asked you what knowledge you had in regard to the boundaries or limits of the State of Louisiana?

A. I told you that I had none except from what I had learned in discussions with others.

Q. Now what did they tell you was the boundary of the State of Louisiana in the south east portion of the State. South of the State of Mississippi?

A. I don't think they ever told me what was the boundary of Louisiana at all. They spoke of the boundary of Mississippi though.

Q. Now did you ever have occasion to look at the acts of Congress which created the State of Louisiana and the State of Mississippi?

A. No sir.

Q. Therefore you never as an independent proposition endeavored to ascertain for yourselves what was the boundary really and correctly between these two States in these waters?

A. No sir, I have never had occasion to study into it through any of the acts of Congress.

1440 Q. You simply, as I understand it, were told that in the act of Congress creating the State of Mississippi that she was given all islands within 18 miles of her shore line?

A. And what Mr. Henderson told me and others connected with him in regard to his researches when we wanted to pass the bill through the Mississippi legislature.

Q. Had you ever heard of Mississippi appointing pilots to pilot to the mouth of the river?

A. I never had. We intended to try and have a bill passed if we could do so, but I had never heard that Mississippi had done that previously.

Q. You don't know whether any Mississippians were ever arrested for piloting in Louisiana at the mouth of the Mississippi river, do you?

A. No sir.

Q. Did you ever hear that as common talk amongst old pilots or any legendary history that came down amongst the pilots of Mis-

sissippi? that any of the Mississippi pilots had been arrested and taken to Pointe à la Hache because they were piloting in Louisiana without a Louisiana license?

A. I never heard of it sir.

Q. Now in this long experience of yours of something like 27 years have you ever encountered any storms?

A. Yes sir. I have encountered a good many.

Q. Between the mouth of Pearl river and the Rigolets and the eastern extent of your voyages?

A. Yes, sir, I have been in a great many.

Q. Were they mild or severe storms?

A. Some were pretty severe. Some as severe probably as we had for many years. Two storms in 1860. Two of the most severe storms that we have had along this coast.

Q. In a rough way, about how many storms, or what you call storms have you experienced in this section in the 27 years that you have piloted? That is from 1856 to 1883?

A. Well I suppose that I have encountered eight or ten severe storms. There were two storms in 1860. One in August and one in September and both of them were severe.

Q. These storms were they as a rule about the equinoctial period in the fall.

A. Yes sir.

Q. What was the effect of these storms on the shipping in this section?

A. Well I have known vessels to go ashore and be wrecked. In one of the storms a Spanish barque went ashore on Pelican island, and a British ship went ashore on Ship island. I remember when the Josephine found herself at Ship island in a pretty severe storm. Another ship was foundered on Cat Island spits, and that is I believe about all of the wrecks of the ocean vessels.

Q. What was the effect on the smaller vessels navigating the inside and on the bath houses and piers and wharves alone on the main Mississippi shore?

A. Well there were a good many smaller vessels that were wrecked in these storms.

Q. Well now is there any effect on the shore of Mississippi itself. The main land. Any erosion as a result of these storms?

A. I don't know of any.

Q. Did you have occasion to notice whether the water was any closer to the front along the coast at any point as a result of these storms?

A. There might have been coasts where a few feet had been cut away, but if there had been any perceptible change I would have noticed it without making a close observation. I am so familiar with it all.

Q. What effect did these storms produce on the bath houses along the Mississippi shore there?

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A. Well sometimes it would sweep nearly all of them away along the front.

Q. Would these storms cross over to the Louisiana marshes?

A. Yes sir.

1441 Q. Would you be able to say what effect they would have produced or did produce on the Louisiana marsh from any positive personal information of yours?

A. I never noticed any effect from 1856 to 1883 except that Point Chico had cut away a little. The most of this was done in the storm of 1860.

Q. You don't mean to say that there were no changes produced?

A. No sir, but it was hardly perceptible.

Q. Do you mean to say that there were no changes produced, or that it was hardly perceptible?

A. I mean in the shore line of the marsh where I am familiar. I don't speak of the inside of the marsh for I don't know about that.

Q. You don't know what changes have been produced on the inside of the marsh?

A. No sir, I only know the coast line.

Q. As to the interior of the marsh I understood at the beginning that you were not prepared to tell. You don't know anything about that?

A. No sir.

Q. You spoke of the coast line. You know where Malheureux point is?

A. Yes sir.

Q. You know where Isle à Pitre is?

A. Yes sir.

Q. You have sailed along down there in your trips?

A. Yes sir.

Q. And you saw the coast line there as you sailed along there?

A. Yes sir, I sailed with a class of vessels that used to coast it very close when I was sailing from Chandeleur sound. I never passed through but very seldom with sea worthy boats. Whenever I was taking a sea worthy boat out from the mouth of the Mississippi out to Mobile, or Lake Pontchartrain I would go up through the middle of the sound. The most of the boats would be Red River boats, long stern wheel boats. Some were crossed out by the insurance and we had to be very careful with them.

Q. I am speaking of the shore line between Malheureux point and Isle à Pitre. You have not gotten to Chandeleur sound?

A. Sir?

Q. I was speaking of the shore line from Malheureux point to Isle à Pitre, and after you come out of the mouth of Pearl river you have not yet gotten to Chandeleur sound?

A. No sir.

Q. Well now if you had occasion to notice this shore line from these vessels as you came out of the mouth of Pearl river? Did you?

No, sir, not particularly. Not along there.
Well what shore line is it that you say you have noticed?
All the way down along the Chandeleur sound. From Isle à
down to Point Chico.
What do you know about the shore line from Malheureux point
le à Pitre?
Well I never had occasion to notice that much.
Therefore you don't know it at all?
No sir.
Could you see it from your boat as you went along there
gh the Mississippi sound?
Well we could have seen it yes sir.
Did you ever look as you were passing eastward out of Pearl
Did you ever look?
I could see Isle à Pitre of course.
Did you ever look to the south as you were passing out of the
of Pearl river and moved on eastwardly Did you ever
o the southward and see this shore line of the Louisiana line;
uisiana marshes between Malheureux point and Isle à Pitre?
No sir.
In all of your trips of 27 years you can not say that you ever
is shore line?
A. You mean south of Isle à Pitre?
A. I said south of the channel between Pearl river and Cat
island?
Yes sir, I have seen it a short distance but I could not see it
way down.
Will you please look at this map which is map No. 59, and I
ut to you on it Malheureux point. Do you recognize it as
es sir.
nd I point out this as Isle à Pitre?
es sir.
o you recognize it as such?
es sir.
nning out of the mouth of Pearl river following as I do with
l along this channel concerning which you have just testi-
f your boat was to progress in this way and you look to the
rd could you see that shore line?
o sir.
d you ever on any of those trips go close enough to the shore
e able to see it?
ell I have gone around here during the war.
here do you mean? Do you mean north of this shore line
aters of the Mississippi sound. You say that you have been
ring the war?
s sir.
w close to the shore line were you then?

A. Well I was on a steamer a short while. A boat drawing feet. Some times we would be a half a mile from it.

Q. Could you see the shore line?

A. Yes sir.

Q. Was it a drâned shore line?

A. A defined shore line. Marshes.

Q. Have you ever been continuously along this shore line fro Malheureux point following this pencil to Isle à Pitre?

A. No sir, I have down to the eastward. Chandeleur sound.

By Mr. Guion:

Q. Captain, I want to ask you a couple of questions that have o curred to me during this examination. Did I understand you t say a moment ago when you were giving your evidence that ther was a bayou that you called Three Mile bayou through which yo went?

A. I was told when I was taken through by this fisherman. H told me that he would take me through Three Mile bayou and cu off this distance up here.

Q. What do you mean by up here?

A. Up around this deep water channel. Between Cat island and Isle à Pitre. He took me through a bayou that he called Three Mile bayou to save that distance there.

Q. To save the distance between Cat island and Isle à Pitre?

A. Yes sir, we were going around into Lake Pontchartrain.

Q. Where — you coming from?

A. From Calcasieu river. When we come up by the lower lagoon we then hauled in towards this bayou and he told me that it was Three Mile bayou.

Q. I find on this map before you which is map No. 59 no bayou along that point west of Grand pass called Three Mile bayou. Could you indicate which one of these bayous it is. Which opening you speak of as Three Mile bayou?

A. No sir, I only went by what he said.

Q. Was it Grand pass through which he went?

A. It might have been Grand pass through which he took me, but he went out Three Mile bayou. This was my regular route up through Chandeleur sound, and then through Cat Island pass. That was my regular route, but on this occasion I had this fisherman aboard, and he was thoroughly posted in the marsh and he proposed to take me through Three Mile bayou to shorten the distance.

Q. At what point did you go into this marsh?

A. I don't know unless it would be —. I know that we cleared this Battle Door island. Left it to the left and went to the westward. It might have been through Grand pass that he took me.

1443

Q. You don't know what the place was except he told you that it was Three Mile bayou?

A. He told me that it was Three Mile bayou.

Q. Now there is one more question that I would like to ask you I understood you to say that you understood that Mississippi, or rather the southern boundary of Mississippi was 18 miles south of Pearl river. Did I understand you correctly?

A. Yes sir.

Q. Was it your understanding that the line was found due 18 miles south of Pearl river. 18 miles due south.

A. That the line extended due south 18 miles.

Q. Due south from what?

A. From Pearl river.

Q. Is it the western mouth or the eastern mouth?

A. The eastern mouth.

Q. The eastern mouth of Pearl river?

A. Yes sir.

Q. Have you ever heard discussed the subject of where the line after it left Pearl river, the eastern mouth struck the Louisiana marshes. At what point?

A. No sir, I don't think that I ever did.

Q. All that you heard was that Mississippi extended 18 miles south of the eastern mouth of Pearl river?

A. Yes sir.

Q. Did you ever discuss or hear discussed the subject matter of the line running along Nine Mile bayou or down Nine Mile bayou?

A. I don't think I ever did.

Q. And you are quite sure that you are not able to state the point that is reached in the Louisiana marshes after you leave the mouth of Pearl river that far down?

A. No sir.

Redirect examination.

By Gen. WILLIAMS:

Q. Captain, you explained awhile ago that your usual route was up the channel here by this point. What is that?

A. Isle à Pitre.

Q. And that on one occasion you were carried through this pass by some fisherman who was on your boat?

A. Yes sir.

Q. Now as I understand it you were questioned by the counsel for Louisiana as to the reason why you went through this way and the distance. I would like for you to state in your own way why you happened to go this way and what the distance is from this point to that one over there?

A. Well sir, when we come up north of Door point——

Q. Now call your points all of the time. You did not do it is the reason I am asking you this question now?

A. When we come north of Door point this fisherman proposed to me that he knew the way and could take me through Three Mile

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bayou as he said and shorten the distance that we would have to g
We went right around Isle à Pitre and out this channel.

Q. To what point?

A. To the point that we were going to wherever it was. We stru
this deep water channel and came down past St. Joseph. In oth
words he would have to go through at Door point, up through th
that he said was Three Mile bayou. We would have to run in
deep water channel over here and carry us to St. Joseph island?

Q. Was your point in view St. Joseph island?

A. Yes sir, that is the point in view to keep in the channel throug
the Rigolets.

Q. To go through this way was to shorten the distance to S
Joseph island?

1444 A. Yes sir.

By Mr. McCLURG:

Q. What river was it you say you came out of?

A. Out of Calcasieu. We entered at the head of the river an
went through the head of the pass and went down Pass Alutia.

Q. And came out to the eastward?

A. Eastward. We came out of this pass and up inside of Chande
leur sound.

Q. When was this?

A. I think it was in 1867.

Q. You spoke awhile ago about some trip that you made around the
coast from Malheureux point to Isle à Pitre during the war did not
you?

A. Yes sir.

Q. Where did you start from on this trip if you remember?

A. Well it was on a small gun boat, and we were on the go all
of the time. We were on the go all of the time on a Confederate
boat.

Q. How near did you go to this Louisiana coast at that time?

A. At any time we were hardly further than a half a mile from
the shore.

Q. Did you make more than one trip?

A. Yes sir, we made probably three or four trips. There were
some Malays living on a small bayou. I disremember where it was
but we used to go there and watch them once in a while.

Q. Where were they?

A. I forget the name of the bayou.

Q. Would you recollect it if you were to hear it?

A. It was some French name. I don't think I would.

Q. Do you remember whether it was Nine Mile bayou?

A. It was not Nine Mile bayou.

Q. Turkey bayou?

A. No sir.

Q. Johnson bayou?

A. No sir.

Q. Creole gap?
A. No sir.
Q. St. Malo?
A. No sir, it was a French name. I can not think of the name that they called it.
Q. Where was it?
A. On the north coast of the marsh.
Q. Between Malheureux point and Isle à Pitre?
A. No sir, further west.
Q. It was on the coast of Lake Borgne then was it?
A. Yes sir, it was Bayou St. Malo.

T. C. MORRISON, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLURG:

Q. Where do you reside, Mr. Morrison?
A. Biloxi.
Q. How long have you lived here?
A. I have been living here about 19 years.
Q. What is your occupation?
A. Oysters.
Q. Are you familiar with the waters to the east of Lake Borgne?
A. Yes sir.
Q. How long have you been familiar with them?
A. Ever since 1866.
Q. Tell us how your familiarity has been acquired since that time?
A. I have been getting oysters out at the marsh and bringing them to Biloxi and Mobile.
Q. Since 1866?
A. Yes sir.
1445 Q. Look at this map please sir that is marked Exhibit "E" to the bill of complaint. You will notice the red line drawn from the Rigolets and from Pearl river running eastwardly here?
A. Yes sir.
Q. What is called on the map here channel?
A. I can not see very good. Yes sir, here is Pearl river, and Petit pass, and Petit Pass island. Here is Nine Mile bayou and Three Mile bayou, and Johnson's bayou and Turkey bayou, and Grand pass and Creole gap, and here is what they call Freeze Out harbor here, and here is Isle à Pitre. (Witness points out locations on the map.)
Q. How long have you been familiar with these places?
A. Ever since 1866. That is the first year that I run over there.
Q. Have you gone through these passes?
A. Yes sir, through all of them.
Q. How large a boat did you ever carry through Nine Mile bayou?

A. I have carried a boat through there drawing four and a half feet of water light.

Q. How about through Three Mile bayou?

A. It drew the same water. It was the same boat.

Q. How about Johnson bayou?

A. That has not so much water. After you get inside it is shoals.

Q. How about Turkey bayou?

A. It is the same way.

Q. How about Grand pass?

A. It is good water all the way through, clean out to Door point.

Q. How far have you gone into these marshes with your boat?

A. I have gone down to what they call Kaliko bay.

Q. How far is that?

A. I don't know how many miles it is. We come through Three Mile bayou and into Bayou Mussell and come out in to the narrows.

Q. What State were you in. Louisiana or Mississippi when you were down there?

A. I did not know who it belonged to, but I have always heard that the line run due south from Pearl river.

Q. What line?

A. The dividing line between Louisiana and Mississippi.

Q. How far south?

A. Three leagues, 18 miles.

Q. That would be six leagues, would not it?

A. Yes sir, six leagues.

Q. Why did you think that Mississippi extended six leagues south of Pearl river?

A. I have always heard it that way. I never have heard it any different.

Q. I will ask you whether you have noticed the islands such as Big Raccoon and Little Raccoon?

A. I do not see any difference in them. They are about the same that they were when I first went there. The mouth of Three Mile bayou is washed away a little, very little. The heavy northwesters have washed it some.

Q. You have mentioned the northern coast of these marshes. Have you noticed any material change in it from Malheureux point to Isle à Pitre since 1866?

A. No, sir, these shells on the outside will wash away and wash up again, but it is just the same thing.

Q. You will notice on this map Mr. Morrison of Louisiana that she has drawn her line of contention between these two States on what is written on the original map as channel. Are you familiar with that channel?

A. Yes sir, I have been across it many a time.

Q. Do you know whether it has ever been regarded by yourself or others frequenting these waters as the line dividing Louisiana from Mississippi?

A. No sir, I never knew anything about it.

Q. Where is the east end of Lake Borgne. Tell us where you fishermen consider the east end of Lake Borgne?

A. I have never caught any oysters in Lake Borgne.

Q. Where did you catch them?

A. In the marsh.

1446 Q. Have you ever caught any around Grassy island?

A. Yes sir.

Q. Grand island?

A. Yes sir.

Q. And Petit pass?

A. Yes sir, and Nine Mile bayou and Three Mile bayou and Turkey bayou and Drum bayou, and in all of these I have gotten them.

Q. How long have you been catching them?

A. Ever since 1866. In different places. We don't work every year in the same place you know.

Q. Where is the best oyster field?

A. By the marsh. Down by Bayou Mussell.

Q. How did you get there?

A. Come through Three Mile bayou.

Q. How far is it south of Three Mile bayou?

A. It is about eight miles southwest.

Q. What kind of a vessel can you go in Three Mile bayou with?

A. I have been in there with a schooner drawing four and a half feet of water light.

Q. Through Three Mile bayou?

A. Yes sir, down abreast of Bayou Mussel.

Q. How much was she drawing loaded?

A. She would not draw very much more loaded. I had to tip her to get her out. She draws that much light. She belongs to Mr. Sweatman here. My own schooner did not draw but three and a half feet light.

Q. Can you tell us where you have been in that marsh with that schooner?

A. I have been all through there clean through from Isle à Pitre, and down to Drum bay.

Q. Have you gone through Nine Mile bayou?

A. Yes sir, I have been through there and there is plenty of water there. Deep enough water there for a full rigged ship.

Q. Did you ever go as far as Indian Mound bay?

A. Yes sir.

Q. You have been as far as Southwest pass?

A. Yes sir, as far as Southwest pass yes sir.

Cross-examination.

By Mr. Dymond:

Q. Did you ever fish oysters in Mississippi?
A. Yes sir.
Q. When did you first start to fishing them?
A. In 1886.
Q. Did you ever fish oysters in this territory lying south of the main shore line?
A. Yes sir, and along down the coast.
Q. What is that territory called?
A. I have always heard it called the marsh.
Q. Is it not a fact that you have always heard it called the Louisiana marsh?
A. No sir, I have heard it called Louisiana marsh in different parts of it. Down about the mouth of the Mississippi river down there.
Q. Is it not a fact that you have always heard it called Louisiana marsh indiscriminately?
A. I have heard it called that yes sir.
Q. Let's be frank about it. Is it not a fact that you have always heard it called Louisiana marsh?
A. Yes sir, I have always heard it called Louisiana marsh.
Q. When you went into this marsh with a boat drawing four and a half feet of water was it not high tide?
A. No sir, always low tide, so that if you go aground you can get off when the high tide comes up.
Q. Did you have any trouble in getting out?
1447 A. No sir, never. We come out in the night time.
Q. You spoke of having your boat tipped by the bar?
A. When you go inside of Three Mile bayou, it is deeper in there and there is more water.
Q. As a matter of fact Three Mile bayou is quite a short bayou?
A. Yes sir.
Q. It is right deep in the bayou, but it shoals up again as you come out of the bayou?
A. As soon as you get in the bay it shoals up.
Q. Is not it the same way in Nine Mile bayou?
A. No sir, Nine Mile bayou is deep water all through the bayou?
Q. Is it not a fact as to Nine Mile bayou and Three Mile bayou, that some differences exist. That it is deep in the bayou but as soon as you get in the end of the bayou out into Lake Boudreaux that it shoals up again just as it does at Three Mile bayou?
A. Certainly.
Q. Well now is it not a fact also in fishing oysters there that you have never considered whether you were in Louisiana or Mississippi, but that you fished as far down perhaps as American bay?
A. Yes sir.
Q. And it is only within recent years that you have thought at

about any boundary line between the two States. Is not that
rect?
. Yes sir, it is only the last two years or three years that they
e tried to stop the boats from fishing there.
. You did not know what the oyster laws were in Louisiana be-
did you?
. No sir.
. You did not know whether the laws stopped non residents
fishing or not did you?
No sir, I did not know anything about that.
It could have been possible that the oyster law of 1886 per-
d non residents to fish and the oyster law of 1892 stopped them.
could have been possible?
Yes sir, the way that I always looked at it I thought that the
p and overflowed land belonged to the United States. I
ght that everybody could fish there, and I went there to fish
You did not know whether this swamp land had been selected
e State of Louisiana and approved to it by the United States,
ou?
No sir.
And you never investigated it to find out?
No sir.
Now in your years of experience since 1866 have you had oc-
to go frequently through the interior of the Louisiana
es?
What for, oysters?
Yes sir?
Of course that was where the best oysters were.
In going through there have you ever noticed the effect pro-
by any storms?
No sir.
Have you ever been in the Louisiana marshes during a storm?
Yes sir.
When was this?
t was not a regular gale of wind but the marshes were all
The marsh is always under any ordinary tide.
ould you see the grass?
o sir, you could not see the grass. It would be even on the
of Grand pass.
low high is the grass there?
he grass grows different heights in different parts of the
aking the highest grass. How high would be the high
bout five and a half or six feet.
ow high were the camps off of the ground?
A. About this high. I don't know exactly how high they
ere but I could pretty near walk under them.

Q. You are about five and a half feet tall?

A. Yes sir, they bedded the oysters there and carried them New Orleans.

Q. Was I correct in hearing you say that you could not see th grass on account of the water?

A. Yes sir.

Q. Was it a heavy wind at that time?

A. Yes sir, it was blowing a southeaster.

Q. Was it that way as far as you could see from your boat?

A. Yes sir, as far as I could see. I had to stay up all night t keep the timber off of the boat.

Q. Were the waves big?

A. Yes sir, you would have thought so if you had been aboar of her.

Q. Did you have occasion subsequent to this storm to go up an of these bayous or places in the marsh and notice whether an changes had been produced by the heavy water and the storms?

A. Well I did not see any difference in it.

Q. I am asking you whether you went up there and noticed that Did you go with that purpose or object in view?

A. I did not go for that purpose, but I used to go out in the marsh maybe every week. Make a trip a week.

Q. Well now are you familiar with St. Joseph island?

A. Yes sir.

Q. Is it in the same condition that it was twenty-five or thirty years ago?

A. No sir, it is washed away some.

Q. It is gone almost out of sight, is it not?

A. I have not been down there very lately.

Q. How about it. What have you heard. Has it not gone nearly out of sight, and have they not had to move the light house?

A. Yes sir, they have had to move the light.

Q. Has not Round island almost washed away?

A. I have not been down there lately.

Q. When was the last time you were there?

A. Two years ago.

Q. Could you see much of Round island two years ago?

A. Yes sir.

Q. What do you call Round island?

A. I call it the next island, last next to Long point. You see nearly every body have got different names for places in that marsh.

Q. That is what I want to get at. Please look at this map marked Exhibit "E" and notice Malheureux point. Do you know where that is?

A. The point that I am talking about is lower down here. This is what I call Round island.

Q. Now what do you call this island which is just southwest of Half Moon island?

A. I don't know what that island is. This is Round island here. You see every body has a different name down there.

Q. You will notice the name Round island on this little island?

A. Yes sir, I see it.

Q. Are you familiar with that island?

A. No sir, I never went around that way much. I always went around here about the marsh and Nine Mile bayou.

Q. You would not be prepared to controvert or deny other witnesses who state that this island was almost washed away?

A. I could not, no sir.

Q. Well now take this pass between Malheureux point and this island. To your knowledge has there been any change in that pass?

A. I don't know. I have not been that way for some time. You see most of my fishing was all down through Three Mile bayou and the middle part of the marsh.

Q. Has there been any change in Three Mile bayou?

A. There is just a little bit on the point. It was washed there with a heavy north wester.

Q. How wide is Three Mile bayou now about?

A. Not very wide. Wide enough for a boat to go through.

Q. Is it a thousand feet wide?

A. I expect it is that.

1449 Q. Well now suppose that witnesses had positively testified that within their knowledge that bayou was at one time but 75 feet wide. Would you say that they were mistaken?

A. It has not been that way since I knew it.

Q. How long have you known this bayou?

A. Ever since 1866.

Q. Did you go through Three Mile bayou on your first trip?

A. Not on my first trip, no sir.

Q. When did you make your first trip out there?

A. The first of September 1866.

Q. Did you go through Three Mile bayou. You did not. Where did you go?

A. I went through Grand pass and Jack Williams bayou.

Q. Well how did you get into Jack Williams bayou?

A. Come through Grand pass.

Q. Will you please point out Jack Williams bayou on the map?

A. Yes sir, I will show it to you. (The witness shows location on the map.)

Q. That is on the eastern shore of the Louisiana marsh is not it?

A. Yes sir, just behind Sun Down island. You can go through by Sun Down island. Go through Grand pass and come out into Jack Williams bay.

Q. That led you into the interior of the marsh?

A. Yes sir, into the marsh.

Q. That is east of West Karako bay.

A. Yes sir.

Q. Did you go any further than that on that trip?
A. I could not say about that. Yes sir, I worked in Crane
bay that winter. That is the next bay from it.
Q. Did you ever in 1866 go over here in the neighborho
Raccoon island?
A. No sir, I did not work that far down that year.
Q. Have you ever noticed any changes in any of the islan
the neighborhood of Raccoon island since you were there?
A. Raccoon island is the same that it was when I first saw
don't see any difference in it.
Q. Did you ever notice any change in the island called N
island?
A. I don't know any island by that name.
Q. If witnesses testified that that island was wiped off of the
of the earth would you be familiar enough with the subject to
that it was not true?
A. I don't know of any such name for an island since I have
there at all.
Q. Is it not your idea that the success of Mississippi's case dep
upon proof that there has been little or no change in the topogra
of that part of the country?
A. No sir, there is very little change that I saw in it at all.
Q. You are sure of that?
A. Yes sir, I am sure of that.
Q. Is it not a fact that there have not been any changes at all
A. I don't know anything about it before I went there.
Q. As far as you know there have been no changes at all?
A. No changes at all only this little place washed away in
Three Mile bayou.
Q. The storms etc., made no difference down there?
A. They have not made any difference down there to my kno
edge.

By Col. ZACHARIE:

Q. How old a man are you?
A. 59 years old. I was born in 1845.
Q. How long have you lived in Biloxi?
A. 18 years.
Q. Where did you live before that?
A. I was at Mobile. Mobile bay on a skiff.

By Gen. GUION:

Q. How wide is Nine Mile bayou now at the mouth?
A. I have not been there in two years.
Q. How wide was it when you were there two years ago
1450 A. I could not tell you exactly how wide it was. I kno
that there was room enough to beat out of it with a schoone
with a head wind.

Q. How wide was it in 1866 when you first went down in this country fishing oysters?

A. I don't see any difference in it only the north point is washed away a little.

Q. How wide was Grand pass when you first saw it in 1866?

A. Well it was about the same. I don't see any difference in Grand pass.

Q. You are not answering my question. I asked you how wide it was in 1866?

A. It was about the same as it is now.

Q. That is not an answer to my question. I am asking you how wide is was. What was its width in 1866?

A. I don't know I never measured it.

Q. How wide is it now?

A. About the same that it was when I first went there. There is no difference in it.

Q. Could you say how wide it is now?

A. No sir, I could not tell you exactly how wide it is.

Q. How wide is Creole gap?

A. That is only a small place. It is shallow.

Q. What width would you call it?

A. There is room enough to beat through the bay there. It is a shallow bay inside.

Q. I don't know any thing about beating through. What I want is to get you as far as you know to give us the width?

A. It is about half as long as that wall.

Q. What distance would you give us as being half as long as that wall?

A. I don't know exactly.

Q. Can you give us an approximate? How wide is Creole gap at the mouth of it going in?

A. It is I guess about one thousand feet wide.

Q. How wide was it when you first knew it in 1866?

A. About the same that it is now.

Q. When was Creole gap made?

A. It has always been that way ever since I knew it.

Q. Did you ever know that country down there when there was no such thing as Creole gap?

A. No sir, it has never been that way since my time. It is the same now that it was when I first went down there.

Q. Did you ever hear it said that Creole gap had been cut there?

A. There was a smack got aground on the south side and they cut a place to get her out. That was before I ever run down in the marsh.

Redirect examination.

By Mr. McCLURG:

Q. You have stated on cross examination that about two years ago you stopped going down there in the marsh?
A. Yes sir.
Q. You were stopped at that time?
A. Yes sir.
Q. Before that time had you ever been disturbed by any of the Louisiana people?
A. Never.
Q. Did you ever know of any objection on the part of the State of Louisiana to fishermen going in there and taking fish and oysters?
A. No sir, they never bothered me. There were some of the Cecilian boats tried to prevent the other boats from fishing there. They told them to get on their own side but they never bothered me. I have been right along by them.
Q. Sailing boats?
A. Yes sir, luggers. They have only one sail. They run in the old basin to New Orleans.
Q. They were taking oysters in there?
A. Yes sir, taking oysters in there.

By Mr. DYMOND:

Q. They told you to stay on your own side?
1451 A. They never said anything to me. They told the other people.

By Mr. McCLURG:

Q. When was this?
A. It was some time ago.
Q. About how long?
A. About five or six years ago. That was down in Indian Mound bay, close to Chimney pass. The bayou runs through from Indian Mound bay to Drum bay.
Q. Was there any objection or interference up to the last two years by any authority or officers?
A. No sir, they never have said a word to me. Nobody has.
Q. Do you know whether you ever carried Captain Walker through the marsh in 1867?
A. No sir.

aptain JOHN WALKER being recalled on behalf of the State of Mis-
ppi testified as follows :—

By Gen. WILLIAMS :

Look at this map now before you filed with the original cross
nd answer as Exhibit " A " and which was offered in evidence
e cross examination of W. M. K. Ducate. I understood you in
examination a short time ago to say that when you were off
in island that it was suggested to you by a fisherman, who was
e boat of which you were the captain, that the most direct
to St. Joseph island was across what has been termed in the
ony heretofore taken as the Louisiana marshes, through Three
bayou. Is that true ?
Yes sir.

Gen. GUION : This testimony is objected to by counsel for the
of Louisiana as being a leading question, and not in accord-
with the testimony of the witness on the stand, who testified
at he was off Martin's island, but that it was Battle Door

You testified in your direct examination that you were directed
sherman on the boat of which you were the captain to a cer-
ute through to St. Joseph island. What route was this.
look at the map heretofore mentioned in the preceding ques-
d say where you were and which way you were going and to
oint your course was directed, and explain fully the route
d taken on similar trips and the reason why you changed it
trip to which you referred in your testimony heretofore.
here were you Captain ?
was coming up Chandeleur sound intending to go around by
of the south side of Cat Island channel towards St. Joseph,
ad an old Greek fisherman on the boat who seemed to be
hly familiar with all of the marsh.
hat marsh ?
e Louisiana marsh as it is called, and when I got abreast of
island he suggested to me that he could take me through
ttle bayou and shorten the distance to St. Joseph island. I
im if he was sure that he could do it without getting
, and he told me he certainly could, so I told him all right,
ut and took the lead line myself and did the sounding, and
he steering, but what route he took through the marsh I
ow. He did go through the marsh and come out on the
e of the marsh, thereby cutting off a great deal of the dis-

here did you reach in that course ?
went across to St. Joseph island and then followed the
down to our destination in Lake Pontchartrain.
ere were you when this fisherman suggested to you that
d go through this way across to St. Joseph island ?

A. About abreast of Martin island It was in sight.

Q. What was your usual course?

1452 A. My usual course would have been straight up Chandeleur sound to Isle à Pitre.

Q. What part of Isle à Pitre?

A. Out in the natural channel between Isle à Pitre and Cat island.

Q. Around to what point?

A. To St. Joseph.

Q. And his suggestion was that you were to do what?

A. The suggestion was that he could take me through Three Mile bayou and thereby cut off all of that distance.

Q. Was this to the east or to the west of Isle à Pitre, the channel between Isle à Pitre and Cat island?

A. It was to the west.

Q. Did you go through these marshes?

A. That is where he took me. What route he followed through the marshes I could not say.

Q. Did you pass through Three Mile bayou?

A. I could not tell you whether it was Three Mile bayou or not.

Q. Are you certain that you passed to the west of the western extremity of Isle à Pitre?

A. I am certain of that.

Q. Did you reach St. Joseph island by that route?

A. Yes sir, by that route.

Q. How much water did the boat draw that you carried that route?

A. Between four feet and four and a half. I could not tell you exactly. She drew over that when I started. I judge that she drew fully four feet at that time after burning fuel.

Q. You said awhile ago that you took the sounding. Did you find deep water through that route?

A. I got no less than seven feet at any time. After we got into some of these bayous in the marsh I got as much as twenty feet in some of them, but the wider places would shallow up again.

Q. Were you in the marsh?

A. Yes sir, in the marsh. Some of the small places that he passed through were very narrow. A long steamer could not have made the short turns.

Q. As a matter of fact you know that you did go through the marsh in some direction from Martins island to St. Joseph?

A. Yes sir, that I am sure of.

Q. And you left Isle à Pitre to the east?

A. To the east.

Q. What course were you going at that time?

A. At the time we changed the course to go in the marsh?

Q. Yes sir?

A. We were going north.

. What direction did you go in taking the route that was fixed he fisherman on your boat?
. Nearly north.
. How much water did you say the boat of which you were the ain at that time was drawing through this marsh?
. As near as I could judge after burning out considerable fuel drew about four feet. She drew about four and a half at the e we started.
. As a matter of fact, if you know, how deep did you find the er between Martin island, and St. Joseph island through the sh?
. Not less than seven feet at any place.
. And you are unable as I understand to determine the exact rse that you took?
. Yes sir, I would not know it.
. But as a matter of fact you do know that you went through n Martin island to St. Joseph island through the marsh?
. Yes sir. I had been around this other course perhaps a few ndred times. It is the usual course. Out north across Chande- sound to the north side of Isle à Pitre, and then westward to Joseph. That is the usual course. I had been there several ndred times, but this time I went through a route that I had er been before or since.
. And that route was?
. Through the marsh.
. Through what marsh?
. Through Louisiana marsh. As the fishermen told me it was through Three Mile bayou.
3 Q. And you were directed on that route by the fisherman who was on your boat?
. Yes sir.
. And he said that he carried you out through Three Mile ou?
. Yes sir.
. All the way along the route which you were carried?

By Mr. DYMOND: Counsel for Louisiana objects to the leading stion.

. Were you or not informed by the fisherman that he carried out through Three Mile bayou?
. He did not inform me afterwards. He informed me before he ted in that he would take me through that route. Through ree Mile bayou.

Recross-examination.

By Mr. DYMOND:

. You were examined in chief and cross examined and ex- ined again, and I understood that your examination was com-

pleted. At that time you testified that when this change of course was made by you that you were off Door point. How is that you have now changed?

A. No sir, I don't think I stated Door point. I said Battle Door island, but after looking at the map I find that I was mistaken about it being Battle Door island. It was Martin island.

Q. What map did you look at. What map have you looked at in the interval, and by whose request did you look at it?

A. I looked at this map while I was sitting in the room yonder.

Q. Was it not shown to you and was it not suggested to you that you had made a mistake?

A. No sir. But after looking at the map I saw that I had made a mistake in that. Instead of being Battle Door island it was Martin island that I was abreast of and in sight of when he made this suggestion.

Q. How is it that you happened to be recalled and put on the stand to correct this?

A. Oh I don't know sir.

Q. Was not the mistake called to your attention by counsel for Mississippi?

A. Not to any thing particular. They merely told me that the attorney general wanted to ask me a question or two more.

Q. Did not he know that you realized that you had made a mistake?

A. Not that I know of.

Q. Did not you tell any body that you had made a mistake?

A. No sir, I did not tell any body until I looked at this map afterwards and I saw that I had made a mistake.

Q. But you do admit that you had made a mistake?

A. Yes sir, instead of Battle Door island I should have said Martin island in my first evidence.

Q. Now you are just as likely to have made a mistake as to the other phases of this question?

A. I hardly think so. I probably, by looking through some of my papers can verify it all now. I happened to keep a daily diary and perhaps when I get through I can refresh my memory by referring to it.

Q. I understood you to say a while ago that you had perhaps made two hundred trips between the mouth of Pearl river and Chandeleur sound?

A. Yes sir, in the 27 years' time that I was there.

Q. And out of these 200 trips it was only on that one occasion that you went through there?

A. Only one occasion.

Q. Through the Louisiana marshes by this route that you have just described?

A. Yes sir.

Q. You never went before?

A. No sir.

1454 Q. And you have never been through there since?
A. No sir.

Q. This route that you have described certainly was not an ordinary route was it. The customary route for people to take?

A. I was a licensed pilot at the time I was taken through there. It was a route that I had never seen or known, and knew nothing about.

Q. Were not the conditions of the tide very favorable at the time you went through there?

A. No sir. In fact out in the water we could not have told the condition of the tide.

Q. I know, but did not you learn that after you got in there. What was the condition of the tide after you found yourself in there?

A. Just an ordinary tide.

Q. Was it a high or a low tide?

A. Just an ordinary medium tide. It was just about medium. It might have been half ebb.

Q. How long a boat were you in?

A. She was about 110 or 120 feet long.

Q. I understood you to say that you had considerable difficulty in getting around some sharp curves?

A. No sir, not with her. She was a side wheel boat.

Q. She was easily handled?

A. Easily handled.

Q. Could a stern wheel boat have gone around these corners?

A. Not very well.

Q. Therefore it was not a well defined course that was capable of being used by regular commerce between Pearl river and the Chandeleur sound?

A. Hardly so to advantage. There is not sufficient commerce going in this direction.

Q. I suppose you endeavored to pick out; and your pilot endeavored to pick out the deepest water that he could, did not he?

A. I suppose that he did because I cautioned him against running aground. He assured me that he would not go aground, and to make sure of it I went and took the lead line myself.

Q. Your boat drew four and a half feet of water?

A. Somewhere between four and four and a half feet.

Q. So far as your lead line was concerned; that was only thrown at intervals as you went along?

A. Yes sir, thrown at intervals, until you would strike these deep bayous and then I did not throw it so often.

Q. The depth of the boat was a constant thing. You knew that there was nothing under four feet?

A. Yes sir.

Q. You would not say that there were no lumps or anything so that you could take a seven foot boat through there would you?

A. No sir, I would not say that.

Q. You would not say that that was a safe thing to do?

A. Yes sir, I would if you did not have a longer boat and one that was managed as easily as she was I think you could do it again.

Q. Do you mean to go in a boat drawing seven feet of water?

A. Yes sir, after you get over the bar there is no further danger. The outer bar is where I got the seven feet.

Q. The outer bar where?

A. At the entrance from the east, and the outlet at the west.

Q. When you saw the entrance from the east you were in the neighborhood of Martin island?

A. Yes sir, where he entered the marsh.

Q. What was the name of this pilot?

A. That I don't know.

Q. Is he dead?

A. I might have his name too. He was a pretty old man then though.

Q. You would not be able to go back that way yourself would you?

A. No sir, I would not know the route that I took at all.

Q. What time was it that you made this trip. What year?

A. I think that it was in 1867. I am not quite confident of that, but I have a memorandum at home.

1455 Gen. GUION:

Q. Could you tell us please how long it took you to go through the Louisiana marshes when you went in at Martin island?

A. No sir, I don't think I could tell you, but there was no delay. No stoppage. We kept going all of the time.

Q. Were you running slow?

A. No sir, we were running full speed except at the entrance and in going out. Then I made him slow up. I was steering the boat myself.

Q. As you went out into Lake Borgne?

A. Into Lake Borgne we slowed up. As I entered there I was very careful. As soon as we got on the inside of the marsh on both sides we dropped into 16 or 18 feet of water.

Q. That is the first time that you had gone through there?

A. Yes sir.

Q. Have you ever gone through there since?

A. No sir.

Q. Do you know of *it* its being a route for vessels to go through there?

A. Not for regular navigation unless the oyster boats and fishing boats go there.

Q. I am speaking of the boats engaged in commerce?

A. I don't know of any thing going through there.

Q. I understood you to say that you had intended when you were

'handeleur sound to go on the regular channel route by Cat nd and Isle à Pitre?
. Yes sir.
. There was a well defined channel which was between Cat nd and Isle à Pitre?
. Yes sir.
. And that channel you said you intended to follow as far as St. eph island?
. Into Lake Pontchartrain. We all used to go right by St. eph island. That is the regular channel between St. Joseph nd.
. In taking this channel did you go north of Grand island?
. North of it.
. North of Grassy island?
. Yes sir.
. Is that channel a well defined channel that leads into the Rigo- ?
. Yes sir.
. Is there any channel that debouched from that and left it ng on up into Pearl river?
. Into East Pearl river?
. Yes sir?
. No sir, it was a wide channel all the way from the Rigolets up.
. How did you reach that channel coming out from Pearl river?
. You steered right straight out south.
. South out of Pearl river?
. Yes sir.
. Did I understand you to say that there was after leaving the ern mouth of Pearl river a channel that led into this other chan- that you spoke of that went into the Rigolets?
. Yes sir, it is the only channel east and west, and Pearl river ties out into this channel.
. Was this the deepest channel that you know of that would e a vessel from Cat Island pass to Pearl river?
. Yes sir, that is the deepest channel.

Redirect examination.

Gen. WILLIAMS:

. When was it that you said you went through these marshes tain in this boat. In what year?
. I could not say positively but I judge that it was about 1867.
. How long have you been on boats on this water. When did you begin?
A. Constantly about 27 years.
Q. How long from the time you began to be on a boat; captain of it; how long ago since you were captain or occupied e other position on some boat in the waters off the southern coast Mississippi and Louisiana?

A. You mean how long since I retired?
A. No sir, how long since you started?
A. I counted up to the time of my retirement. I don't know anything about the waters after my retirement. I retired in 1883.
Q. When did you start?
A. In 1856.
Q. When did you retire?
A. In the winter of 1856.
Q. Since you have ceased to be a captain on a boat on the waters of the southern coast here what has been your position and occupation?
A. Well I have been in commercial business. I have been president of several institutions here in Biloxi. I am now president of the Bank of Biloxi, and president of the Biloxi artesian ice factory, and president of the telephone Co., and president of the water works during its existence, and president of the Inter State Building and Loan Association. I have been holding quite a number of positions of that kind. I have for the last seven years constantly been the president of the Bank of Biloxi. For the last 14 years I have been president of the Biloxi Artesian Ice Mfg. Co., and am still president of it.

Thereupon the commission adjourned until Wednesday June 8th, 1904.

Upon the meeting of the commission this morning June 8th, 1904, there were present Hon. William D. Bullard, commissioner, and Gen. Monroe McClurg, counsel on behalf of Mississippi, and Col. F. C. Zacharie, and Hon. John Dymond, Jr., on behalf of the State of Louisiana.

Mr. Louis Grou, a witness on behalf of the State of Mississippi being duly sworn, testified as follows:—

By Mr. McClurg:

Q. How old are you?
A. I am 65 years old.
Q. Where do you reside?
A. Back bay.
Q. What county?
A. Jackson county.
Q. How long have you lived here Mr. Grou?
A. I was born and raised here.
Q. Are you familiar with the waters between Biloxi and the mouth of Pearl river?
A. I was raised on that water.
Q. Back bay and Jackson county are in Mississippi are they?
A. Yes sir.

Q. And the waters between Biloxi and the mouth of Pearl river are in Mississippi?

A. Yes sir.

Q. What is your occupation?

1457 A. Oysters. Oystering all of the time.

Q. How long?

A. Since 1865.

Q. Where?

A. At Grand marsh and Back bay.

Q. Where is Grand marsh?

A. It is out there 18 miles from Pearl river to the south of it.

Q. You have been taking oysters in Grand marsh since 1865?

A. Yes sir.

Q. When you were taking oysters in Grand marsh what State were you in?

A. They called it Mississippi.

Q. Do you know how far Mississippi extends from her shore?

A. 18 miles to the southward.

Q. How long have you understood it to extend 18 miles to the southward?

A. Ever since I was able to crawl I heard it.

Q. Do you know where Isle à Pitre is?

A. Yes sir.

Q. In what State is Isle à Pitre?

A. It must be in the State of Mississippi.

Q. Do you know where Grand pass is?

A. Yes sir.

Q. In what State is Grand pass?

A. It is in Mississippi.

Q. You have stated that you took oysters since 1865 in Grand marsh. Please tell us now what part of the marsh you have been taking oysters in during this time and if you believed that you were in the State of Mississippi.

A. I have been taking oysters out of Greecue bayou and Three Mile bayou and Jack Williams bay, and at Isle à Pitre, and Bayou Boudreaux and all around there.

Q. Why did you say that you were in the State of Mississippi?

A. Because they said that the line went 18 miles south of Pearl river.

Q. How long have you considered that to be the line?

A. It has been a good while. Since I was a young chap. The old folks always said that it was.

Q. Do you know where the channel is that comes out of Lake Borgne and Pearl river around Southwest pass?

A. Lake Borgne. I never have been there. I never have been in Lake Borgne.

Q. You don't know any thing about the deep water channel?

A. No sir, I never have been there fishing oysters.

Q. What sort of boats have you been fishing in?

A. Schooners.
Q. How much did these schooners draw?
A. Light draft. Skiff schooners.
Q. How much?
A. About five tons.
Q. How deep would she go in the water?
A. About two or two and a half feet. Light draft.
Q. Did you ever go in Three Mile bayou in a schooner of that kind?
A. Yes sir.
Q. Grand pass?
A. Yes sir.
Q. Karako bay?
A. Yes sir.

Cross-examination.

Mr. DYMOND:

Q. Now Captain what makes you think that Mississippi has jurisdiction 18 miles from her shore?
A. Well that is what I have always heard the old folks say. That it was 18 miles to the south of Pearl river.
Q. Do you know what jurisdiction Louisiana has from her shore?
A. No sir, I could not tell you.
Q. Did you ever hear that she had jurisdiction for nine miles from her shore?
A. No sir.
1458 Q. You never heard that?
A. No sir.
Q. You never looked at the act of Congress creating Mississippi did you?
A. No sir.
Q. You never looked at the act of Congress creating the State of Louisiana?
A. No sir.
Q. You don't know which one was passed first?
A. No sir, I don't know.
Q. Would you be able to say where the 18 miles line was from the Mississippi shore?
A. From the shore?
A. Yes sir, 18 miles.
A. No sir, I could not tell you at all.
Q. Now all of these years that you have been fishing oysters in the Grand marsh as you call it is it not a fact that that has been called the Louisiana marsh ten times as much as it has ever been called Grand marsh?
A. I always called it Grand marsh, me.
Q. Has not every body called it Louisiana marsh?
A. I don't know. I have heard some of them call it that way.

Q. Have you not heard it called that very frequently now?
A. Some of them did call it that, but I always called it Grand marsh, me.
Q. Which did you hear the people call it most. Grand marsh or Louisiana marsh?
A. I could not say. We used to call it Grand marsh all of the time.
Q. You can understand the questions that were put to you by counsel for Mississippi, and I want you to understand the questions that I put to you. You said when you began coming out here they called it Louisiana marsh. Is that correct or not?
A. I heard it called a long time ago the Louisiana marsh. But we always called it Grand marsh.
Q. Have you ever fished in Drum bay for oysters?
A. Mighty few. Karako and Jack Williams——
Q. Have not you ever fished in Drum bay for oysters?
A. No sir.
Q. Do you know where Martin island is?
A. Yes sir.
Q. Have you ever fished for oysters around Martin island?
A. Yes sir.
Q. Were you in Mississippi then?
A. I expect that it is within the 18 miles.
Q. Did you ever fish in California bay?
A. No sir.
Q. Did you ever fish in Drum bay?
A. No sir, I have fished in Karako bay.
Q. Did you ever fish in Lake of the Mound?
A. No sir.
Q. Did you ever fish in Scow pass?
A. No sir.
Q. Did you ever fish around Mitchell's keys?
A. No sir. I never did.
Q. How far is Southwest pass from the main shore of Mississippi?
A. To what?
Q. Southwest pass. And Jack Williams bay. How far is that from the main shore of Mississippi?
A. That would be hard for me to tell you. Southwest pass is inside of Karako there.
Q. You know where Jack Williams pass is do you?
A. Yes sir.
Q. How far is that from the main shore of Mississippi?
A. I could not say now.
Q. What is your best judgment? From the main shore up at Bay St. Louis?
A. It would be about 10 or 12 miles. I don't know exactly whether it is or not. I don't know whether I am right or wrong there.

Q. What makes you think Captain that Isle à Pitre belongs to Mississippi?

A. Because it is to the east over here and within 18 miles of the shore.

Q. You think that it belongs to Mississippi because it is
1459 within 18 miles of the Mississippi shore. That is what makes you think that?

A. Yes sir.

Q. You don't know whether Louisiana has any claim to it or not do you?

A. No sir.

Q. Now when was the first time that you were ever stopped from fishing in Louisiana?

A. That is going on about two years now. They never stopped me. I quit going as soon as this law come out. I quit then.

Q. What law?

A. About the license in Louisiana and Mississippi.

Q. You did not fish oysters then any more?

A. I did not go out there. It has been a year and a half that I did not go in the marsh.

Q. Why? On account of the law?

A. Because we had to pay license from that on.

Q. You had to pay too many licenses?

A. Yes sir.

Q. Were you ever stopped by any body from fishing down in the Louisiana marshes. Did any one ever stop you from fishing there?

A. I did not give them a chance to drive me off because I quit.

Q. I mean before two years ago. Way back in 1870?

A. Nobody ever troubled me at all.

Q. Do you know what the Louisiana law provided at that time. Do you know what the Louisiana law was in 1870 in regard to oysters?

A. No sir, I do not.

Q. Do you know what the Louisiana law was in 1886 on oysters?

A. No sir, I never read the law about this suit at all.

Q. You never read the Louisiana law on oysters at all?

A. No sir.

Q. When you were fishing down there did you ever see any boats from the old basin fishing down there too?

A. There used to be luggers that fished all about there.

Q. In the same place that you were fishing?

A. Yes, sir, but they never told me nothing.

By Col. ZACHARIE:

Q. Before the Civil war were you fishing oysters?

A. No sir.

Q. You were not?

A. No sir, I was fishing in the bay here and at Mobile but not in the marsh.

Q. Why did you then in 1865 commence going to the Louisiana marshes for oysters?

A. We used to fish oysters here and for the shops all about.

Q. Prior to that time you used to get your oysters from this neighborhood did not you?

A. Yes sir.

Q. Were there plenty of oysters in Back bay?

A. In those times there was.

Q. Were there plenty of oysters all around Deer island?

A. There were oysters all around.

Q. Now what is the reason that you stopped taking oysters from your immediate neighborhood and went off this long distance to get oysters from the marshes?

A. Because we thought that we could do better you know.

Q. Why could you do better?

A. Because there were a heap more oysters around there. Around Isle à Pitre and so on.

Q. This supply around here was not sufficient?

A. No sir.

Q. Why did this supply cease to be sufficient?

A. You know when they put up all of these factories here they wanted more oysters.

Q. There were no factories here in 1865, were there?

A. I don't remember when the first factory began here.

Q. Now was it not because these reefs of oysters around here were ruined by fishing all through the season. During the spawn-
1360 ing time. Was not that the reason that these reefs and fisheries gave out?

A. They were fished mightily.

Q. They were fished all during the summer?

A. They were fished in the summer and all. A poor fellow has got to do some thing to live.

Q. Was there any attention paid to culling oysters?

A. Yes sir, we had to cull them.

Q. Was there any law in Mississippi on that subject?

A. I never heard any at that time.

Q. Now is it not a fact that the ruin of these oyster fisheries in this neighborhood was attributable to the fact that the State of Mississippi did not protect her oysters during the spawning season, and because no laws in regard to the culling of the oysters on the banks was in force. Is not that true?

A. Yes sir.

Q. Then it was, after these fisheries in this immediate neighborhood were ruined that these people commenced to go to the Louisiana marshes?

A. Louisiana or Mississippi marsh. It was Grand marsh I used to call it.

Q. Well call it Grand marsh or Louisiana marsh. That is the reason that they commenced to go over there?

A. Yes sir.

Q. You did not have any canners here until way along '70's or '80's 1882 was the first, was not it?

A. Yes sir.

Q. So it was not because the demand was any greater for but because you Mississippians had ruined these fisheries?

A. We had to work to make our living.

Q. Answer the question. Was it not because you Mississi had ruined these fisheries here?

A. They were not quite ruined you know, but we though we would go out there and get some.

Q. The oysters became so scarce that you could not get the tity that you desired from the Mississippi fisheries?

A. Yes sir, that is it, but there were oysters here all of the The poor fellows had to scratch up the best that they could to a living.

Q. There were plenty of oysters in Back bay were not there

A. Yes sir.

Q. There were plenty of oysters to the eastward. Between and Pascagoula?

A. Yes sir.

Q. And all of these fisheries were ruined because there w attention paid to them by the State of Mississippi?

A. They have to cull them now.

Q. Is that so?

A. Yes sir, they have to work them now. You know tha poor fellows here have to fish oysters to make a living. That only thing that they have here to make something out of. Ye our poor fellows have to scratch the best they can in the o business.

Q. Now these schooners that you say that you fished in with were drawing about two or two and a half feet?

A. That is the schooner that I had.

Q. She was a skiff bottom?

A. A skiff bottom with a light draft.

Q. Center board?

A. Yes sir, a light draft you know.

Q. Do you know where the deep water channel is between Grand marsh or Louisiana marsh and Mississippi. Do you k where the deep water channel is?

A. There is a channel to the southward of Cat island.

Q. I am not speaking of to the southward of Cat island. I speaking of to the northward. Towards Pearl river?

A. Yes sir, there is a main channel all along there.

Q. How close to the Mississippi shore was this deep water cha about?

A. About four miles.

1461 Q. About four miles. Was not it in some places m closer than that?

A. In some places it is shallow you know and in some it is not.

Q. I am not speaking about the depth. I mean closeness to the Mississippi shore? I am speaking of coming from the mouth of east Pearl river and coming along the Mississippi shore. How far was it from the main land to the deep water channel?

A. In some places it is about four miles and in some places it is not that far.

Q. Now does that channel pass northward of the Malheureux islands, and the little group of islands lying in there?

A. That is to the southward of Pass Marianne?

Q. That is Marianne island and Grand island, and Round island. It passes to the north there does not it?

A. It passes to the north there I believe.

Q. Is not that the channel that all vessels drawing any great depth pass through?

A. Yes sir.

Q. It was not necessary for you with your little vessels to go through that channel?

A. No sir. We would go right on through, me.

Q. Now that deep water channel passing along close to the shore of Mississippi. After it passes those islands which way does it turn. Which way does it turn after that. Does it keep to the eastward, or does it go towards the southeast towards Cat island?

A. That is from Bay St. Louis you mean?

Q. I mean that channel that comes from East Pearl river close to the north of these islands. Close to the Mississippi main land. Where does it turn to get to Cat island. The pass between Cat island and Isle à Pitre. Which direction does it take?

A. You have to go around by Pass Marianne and strike about east southeast I believe.

Q. That channel passes between Cat island and Isle à Pitre does not it?

A. Yes sir.

FRANK FOUNTAIN, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Mr. MCCLUNG:

Q. How old are you Mr. Fountain?

A. I am 70.

Q. Where do you live?

A. Back bay.

Q. What county?

A. I live in Jackson county.

Q. What is your present occupation?

A. Gathering oysters.

Q. How long have you been in the oyster business?

A. I have been in the oyster business; I can not tell you the number of years. I stayed in it nine years I believe.

Q. What did you do before that time?
A. I was running to New Orleans.
Q. In what?
A. A schooner.
Q. Do you know the waters from Biloxi to New Orleans pretty well?
A. Not now. It has been long ago.
Q. How long ago?
A. 25 years ago.
Q. When did you first commence?
A. After the war.
Q. How long after the war?
A. Well not long. Two years afterwards.
Q. About 1867?
A. About.
Q. Do you know where that part of the country is that they call the Louisiana marsh?

A. I don't know nothing about the Louisiana marsh or the
1462 Mississippi marsh I know that marsh down there. I always heard what I heard from the old people.

Q. What did the old people say?
A. They said that the line was 18 miles south of Pearl river mouth. I don't know it though. I can not prove it.
Q. How long have you heard the old people say that?
A. Since I was about this high. (The witness indicates his size)
Q. How old were you then?
A. About ten years old.
Q. Do I understand you to say that since you were ten years old that you have heard that country down there that they call the Louisiana marsh or the Mississippi marsh, that it was in the State of Mississippi?
A. Of course they said it was in Mississippi. When I commenced fishing. We were fishing in Mississippi.
Q. Where was that?
A. No further than Jack Williams bay and South East bay.
Q. When you were fishing in these days down there what State were you in?
A. In Mississippi that far. I would not know of course the minute I got over in Louisiana.
Q. Why did you think that you were in Mississippi. Because the old people said so?
A. Yes sir, of course.
Q. You never read the law on that subject?
A. No sir.
Q. Do you know any thing about that deep water channel that we have been talking about?
A. No sir.
Q. Did the Louisiana officers ever bother you when you were down there in these bays?

A. I never was bothered by any body.
Q. When were you down there last. How long ago?
A. About ten years ago. Nine or ten years ago.
Q. You thought that you were then in Mississippi?
A. Yes sir.

By Col. ZACHARIE: The counsel for Louisiana objects to the question on the ground that it is a leading question.

Cross-examination.

By Mr. DYMOND:

Q. When was it that you were fishing oysters Captain. About the year?
A. 25 years ago I went two or three times and quit. Then I was going eight or nine years.
Q. You were fishing about eight or nine years?
A. Yes sir.
Q. About when did you commence fishing oysters?
A. I could not tell you. When these factories opened.
Q. That was about 1882 was not it?
A. I think that it was about 1883.
Q. Then you fished for nine years after that?
A. Yes sir.
Q. And that would be until about 1892 and then you quit fishing oysters?
A. I know that I quit about nine or ten years ago.
Q. Well that would be just about right. If you started fishing in 1882. Did you ever fish around here in Back bay and Deer island down along to Pascagoula?
A. I would fish once in a while around here of course just to eat.
Q. Why did not you fish around here for the factories. Were not there enough oysters around here?
A. We did fish for the factories.
Q. And then you used up all of the oysters and had to go to some other place?
A. Then I fished outside.
Q. Did not you use up all of the oysters first and then have to go to other places to get them?
1463 A. They were lost three or four times.
Q. What was lost three or four times?
A. The oysters by the fresh water.
Q. The fresh water killed them off?
A. Yes sir, certainly.
Q. When was the fresh water?
A. I have not got everything down and I could not say all of that exactly.

Q. Were the oysters lost in Pascagoula on account of the fresh water?

A. Yes sir, every where. I recollect that they were all lost in Southwest pass too.

Q. Where did the fresh water come from?

A. From the river.

Q. That came from the rain did it?

A. Yes sir from the rain.

Q. Too much rain?

A. Yes sir.

Q. The water out there in the marshes came from the Mississippi River crevasse did not it?

A. Yes sir, the Mississippi river. Pass Manshac.

Q. What did you do after the war. What sort of business were you in after the war?

A. After the war I commenced running to Ocean Springs.

Q. Where from?

A. Back bay or the river or any where carrying wood for the steamboats.

Q. Did not I understand you to say that you were running from New Orleans?

A. In our business here we made one month in one business and another month in another business. You can not always stay in the same trade.

Q. Right after the war did you run at all in a boat between New Orleans and the Gulf coast over here?

A. Yes sir.

Q. Did you own a boat?

A. Yes sir, a small boat.

Q. What sort of a boat was it?

A. A seven ton boat.

Q. How much water did she draw?

A. She drew two feet.

Q. You did not have any trouble in sailing her? You always found plenty of water for her?

A. Of course I did.

Q. You did not have to pick out a channel at all did you?

A. No sir.

Q. Do you know anything about the channel that comes out of Pearl river and runs north of Half Moon island?

A. No sir.

Q. Just wait until I finish the question and then answer it. You must not answer the question before you know what I am going to ask you. Wait until I ask you and you will be able to answer it. Do you know any thing about the channel that comes out of the mouth of Pearl river and runs kind of north to Half Moon island, and runs across Mississippi sound and goes south east between Cat island and Isle à Pitre. Do you know if there is such a channel as that?

A. No sir.

Q. Are you prepared to say that there is no such channel. Do you deny that there is any such channel?

A. No sir, I don't know any thing about that. I would go to New Orleans and come on back.

Col. ZACHARIE:

Q. Captain in your various trips going to New Orleans you would on your voyages backwards and forwards see larger vessels than your own would not you? You saw other vessels larger than yours did not you passing backwards and forwards?

A. Yes sir.

Q. Well now what channel did they pursue if any?

1464 A. Starting from this coast and going where?

Q. Starting from this coast and going into the sea?

A. Starting from this coast the channel goes from Pass Marianne to St. Joseph.

Q. Would they go north of these islands and close to the Mississippi shore?

A. South of St. Joseph, and come around Herron bay and come to the Rigolets.

Q. Did they pass north of Half Moon island and these islands?

A. Yes sir, north of Half Moon island.

Q. Did they come close to the Mississippi shore. The main land?

A. No sir, except they passed out past Grand pass.

Q. And when they passed to the north of these islands did they go close to the main land? To the Mississippi shore?

A. No sir, not at all. They come close to St. Joseph and Herron island.

Q. I mean the Mississippi shore. The Mississippi marshes there. Did they pass close to that?

A. Oh no sir, they came around out.

Q. How far away from it did they pass?

A. Well I think it was about nearly a mile, from the channel going to Isle à Pitre.

Q. I am not talking about that up there. I am talking about to the north. Between the islands and the main land. The Mississippi marshes?

A. Oh I understand you now. The north marsh?

Q. Did they pass close to the Mississippi shore along there?

A. No distance at all.

Q. How far do you suppose from the Mississippi shore?

A. About 200 yards from Long Point they passed. It is a good distance in there.

Q. Now is not that what is called the deep water channel. The main channel that is followed by deep water vessels?

A. You can go pretty close there.

Q. Is not that what is called the deep water channel. The main channel?

A. That is what they call it. Main channel.

Q. Now you heard the testimony of the preceding witness Mr. Grou did not you. The gentleman that was on the stand before you?

A. Yes sir.

Q. Is it or not true as he testified that there were plenty of oysters when you were young men all about here. In Back bay and Deer island and towards Pascagoula, and to the westward of here. Were not there plenty of oysters?

A. Sometimes there were plenty and some times there were not many.

Q. Now is it true or is it not that these Mississippi oyster reefs were destroyed by fishing all through the summer and by not culling the oysters. Knocking off the young oysters. In not doing that?

A. Well there was once.

Q. There was once plenty of oysters through here. Is that true?

A. Yes sir, that is true.

Q. Now is it not a fact that only after these Mississippi reefs of oysters were destroyed, and were exhausted in this neighborhood and along this coast that these Mississippi oyster men commenced to go to these Louisiana marshes for oysters?

A. Many a time when there were oysters there they would go there too, and many a time when there were none there.

Q. Now about what year did you commence. You said about 1883. Is that right. That you commenced fishing oysters?

A. Yes sir, I believe it was.

Q. Then there was a demand. A great demand for these canneries for oysters?

A. Not much then until they had commenced and then there was a right smart.

Q. Then when the canneries got well going there was a great demand for oysters as there is now?

A. Yes sir.

Q. And so that made a greater necessity for the Mississippi oyster fishermen to go to these marshes when they had no oysters left here in the Back bay and around in this neighborhood?

A. Certainly, of course.

1465 Redirect examination.

By Mr. McCLURG:

Q. Was there ever a time when there was not oysters in Back bay and around Deer island and all the way from here to Marianne island, except when they were drowned out by the fresh water?

A. Yes sir, that is right. There were oysters about Pass Marianne and about there, and the shoal banks.

Q. Up to Back bay?

A. In the Back bay. We have got some oysters there now.

Q. Do you know where Isle à Pitre is?
A. I think I do.
Q. Are there oysters about there?
A. Well I have not been there in about nine or ten years.
Q. When did you first go there. When did you first go to Isle à itre?
A. I quit since about nine or ten years fishing oysters in the marsh.
Q. When did you first commence. About when?
A. I have told you one time.
Q. Tell me again, please sir. About when was the first time that ou commenced taking oysters?
A. I forget.
Q. About how long ago?
A. I forget.

J. B. FOUNTAIN, a witness introduced on behalf of the State of ississippi, being duly sworn, testified as follows:

By Mr. MCCLURG:

Q. How old are you?
A. I am 67.
Q. Where do you live?
A. Across the bay.
Q. In what county?
A. Jackson county.
Q. What State?
A. The State of Mississippi.
Q. How long have you lived there?
A. Since I was born.
Q. Are you familiar with the waters between Pascagoula and Pearl ver?
A. Yes sir.
Q. What is your present business?
A. My present business is oysters.
Q. How long have you been engaged at that?
A. Ever since I was six years of age.
Q. You have been on these waters since that time?
A. Yes sir.
Q. That means about 61 years.
A. Yes sir, five years ago I quit.
Q. Well do you know where what they call Louisiana marshes e?
A. I always heard it called the Grand marsh.
Q. Where is the Grand marsh, Captain?
A. Well it is south of Cat island.
Q. South of Cat island?
A. Yes sir, down to the south west.
Q. What State is Grand island in?
A. I have always heard that it was in the State of Mississippi.

Q. Why?
A. Because they say that the State of Mississippi claims 18 miles south of Pearl river.
Q. Do you know where Isle à Pitre is?
A. Yes sir.
Q. In what State is Isle à Pitre?
1466 A. I would consider it to be in the State of Mississippi.
Q. Do you know where Three Mile bayou is?
A. Yes sir.
Q. Where is the north end of Three Mile bayou? In what State?
A. Well I never measured it but I concluded it to be in the same line.
Q. Within 18 miles of the Mississippi shore?
A. Yes sir, it must be in 18 miles.
Q. What do you say about Nine Mile bayou?
A. That is outside of my limit.
Q. Where is your limit?
A. Three Mile bayou. From there down to the north.
Q. Down to what?
A. Down to the eastward. To Isle à Pitre and all aronnd there. Jack Williams and all of those places.
Q. Well do you know the country east of Three Mile bayou?
A. Yes sir.
Q. Do you know where Grand pass is?
A. Yes sir.
Q. What State is Grand pass in?
A. Well I suppose that it is all in the same limit.
Q. What limit?
A. Well they say that it is within the limit of the 18 miles.
Q. How long have you known it as being within the 18 miles limit?
A. Well first since I was a boy 15 years old, and I used to hear the old people say all of the time that that was the limit of the line.
Q. Did you ever fish oysters down there about Isle à Pitre or Grand pass?
A. Yes sir, I have fished oysters there.
Q. How long have you been doing that?
A. Well I commenced in 1883.
Q. In 1883?
A. Yes sir, 1883.
Q. Do you know anything about this deep water channel that runs some where between Cat island and Isle à Pitre?
A. Yes sir.
Q. Did you ever hear any thing about that being the line between the two States?
A. I know that there is a channel there, but I never heard of that being the line.
Q. Where did you hear that the line was Captain?

A. I have always heard that the line was 18 miles south of Pearl ver. That is what I have always heard.
Q. Have you regarded it as being 18 miles south all of your life?
A. No sir, that is what I have heard, but I am not certain about

Q. How have you regarded it?
A. All of the old settlers used to tell me that that was the limit.
Q. Did you accept that as being correct?
A. That is the way that we had to take it.
Q. Has that guided you in all of your experience?
A. That has guided me all of the time as to the lines of the Mississippi sound.

Cross-examination.

By Mr. DYMOND:

Q. Captain you never had occasion to read the act of Congress ating the State of Mississippi did you?
A. No sir.
Q. You never had occasion to read the act of Congress creating State of Louisiana?
A. No sir.
Q. If the United States gave Louisiana all islands within nine les of her coast and gave Mississippi all islands within 18 miles ier shore, would there or would not there be a lapping over down ut Pearl river and Half Moon island?
A. I think that it would go a long way south of that.
Q. Do you think you understand. Suppose that Louisiana had all islands within nine miles of her coast and Mississippi all islands within 18 miles of her coast. Now where is Louisi's coast? Is not there a coast running from Malheureux point to Isle à Pitre. Is not there a coast out there. From Malreux point to Isle à Pitre, that marsh coast. Is not there a rsh coast along there?
A. Yes sir.
Q. Suppose you were to measure north nine miles from this marsh st and then measure south 18 miles from Mississippi's shore. uld not these two lines lap over one another?
A. I suppose they would.
Q. You did not know that Louisiana had been given all islands ain nine miles of her coast. You did not know that that was ler an act of Congress did you?
A. No sir.
Q. All of the authority you have for saying that the lines are n here is that people told you that Mississippi had 18 miles from shore?
A. Yes sir.
Q. Now as a matter of fact there are no marks down there to w where this 18 miles limit is?

A. No sir.

Q. You never were disturbed there at all when you were there?

A. No sir.

Q. You fished there and the Louisiana people fished there same time, did not they?

A. At the same time.

Q. And it is only within recent years that the people of sippi have been kept out. That is only recently is not it?

A. Yes sir.

Q. When you fished down there did the question ever come to whether you were in Louisiana or not?

A. No sir, it never came up.

Q. Nobody ever discussed it?

A. No sir, I stopped fishing there five years ago.

Q. Before that the question never came up in any way?

A. No sir, no question came up to hinder me from fishing I was fishing.

Q. Did any body come there and disturb you and say Louisiana?

A. No sir.

Q. Did any body come there and say "You have a right here because this is Mississippi"?

A. No sir.

Q. Before you went and fished oysters in 1883 were you coasting business?

A. I had just quit my coasting business when I came to th ter business.

Q. What sort of a boat did you have?

A. A very small boat.

Q. You could go any where in it?

A. Any where I wanted to I had water enough.

Q. You did not have to look for channels?

A. No sir.

Q. You saw other boats going out there that drew a grea more water?

A. Yes sir.

Q. Suppose a boat was coming out of the mouth of Pear and wanted to go down around to Martin's to the southward. did she do that?

A. They had gaps to go through. They had channels through the marsh.

Q. How deep were the channels through the marsh?

A. Some of the channels are pretty deep through there.

Q. Have you ever been through them?

A. Not in the marsh. Just in the edges.

Q. What is the general course that the big boats take that out of Pearl river and want to go to the southeast? What ro they take?

1468 A. They would take I suppose about east southeast.

Q. Well now let's follow the course. Would not they come out of the mouth of Pearl river and go south of — point and north of Half Moon island. Would not they pass through this channel?

A. It is one steady course from the mouth of the Rigolets due east.

Q. When you get opposite Cat Island pass which way would you turn?

A. You would turn a little to the southward.

Q. And go between Cat island and Isle à Pitre?

A. Yes sir.

Q. You have a good deep channel there?

A. Yes sir.

Q. Has not that channel been there ever since you knew this country?

A. Yes sir.

Q. Now about this Grand marsh that you have heard of. Is not that marsh 100 miles long or more?

A. I never went down to see how far it is. I have heard other people say that it is a big marsh.

Q. It runs way down in Plaquemines parish?

A. Way down to the mouth of the Mississippi river.

Q. That is 100 miles up there?

A. I don't know how far it is. It is a pretty good ways.

Q. Did not you call it Grand marsh because it is so big?

A. Yes sir that is it.

Q. Then you heard it called Louisiana marsh too?

A. Here lately I have heard a good many call it Louisiana marsh. I don't know why they call it Louisiana marsh.

Q. You have heard it called that right among these people. The Mississippians here call it that?

A. Yes sir.

Q. Is that correct?

A. Yes sir.

By Col. ZACHARIE:

Q. When you were a young man there were plenty of oysters around here in the neighborhood of Biloxi were not there?

A. They did not grow near as thick as they are growing today.

Q. There were plenty of oysters to supply the trade here however were not there?

A. No sir, not one portion of the trade.

Q. What was the trade at that time?

A. In the oyster business mostly.

Q. I mean to say for what purpose were the oysters fished around here?

A. There were just a few shops.

Q. There was very little demand?

A. Very little demand. Just a few shipping.

Q. There were a good many more oysters around here then — there are now was not there?

A. No sir.

Q. What?

A. No sir.

Q. Do you say that there are as many oysters in Back bay and Deer island and along the coast to the east here now as there was then. As when you were a young man?

A. When they were not fished out yes sir.

Q. Were not they fished out?

A. No sir.

Q. Prior to the canners coming here and after the canners came here, were not those oyster beds here in this neighborhood pretty well exhausted?

A. Yes sir, pretty well exhausted.

Q. Were not the exhaustion of these bays attributable to the fact that the people fished them all the summer through when they were spawning?

A. Not much.

Q. Is it not a fact that all along this coast that oysters were sold all during the summer?

1469 A. A few, not so much. They did not use so many oysters during the summer.

Q. Did not all of these shops along here; have not they as long as you remember sold oysters to these visitors here in mid-summer?

A. Yes sir.

Q. Was there any law of Mississippi which compelled the oyster men to cull oysters, but was not it the habit of these oyster men to take the oysters ashore and cull them on the shore?

A. Not that I know of.

Q. Now is it not a fact that it was when these Mississippi oyster fisheries had become some what exhausted and these canneries were started here from 1882 on that the great majority of these Mississippians went over to this Grand marsh or Louisiana marsh for the purpose of getting oysters?

A. Well they had to go some where to get them.

Q. I asked you if it was not a fact. If it was not until after these fisheries were pretty well exhausted and the canneries were established that nearly all of these fishermen commenced to go to this Grand marsh as you call it to get oysters?

A. Well they had to go some where to get them. There were a good many of them working all of the time but the business could not supply them all and some of them had to go to other places.

Q. And that is the reason that they went to the marshes?

A. I guess some of them.

Q. You have had on this coast in the neighborhood of Biloxi both to the east and west going towards Pascagoula and Mobile. There were plenty of oysters in past times to supply the demand. There were plenty of them just after the war?

A. There was scarcely no use for oysters. Very little demand.
Q. You had plenty of oysters however to supply the demand?
A. Yes sir.
Q. It was this increase in the demand and the extension of your oyster fisheries along your immediate coast that led to these people going to this Grand marsh?
A. Yes sir.

Redirect examination.

By Gen. McCLUNG:

Q. You said that there were some gaps that led down into the Grand marsh. What gaps were they Captain?
A. Well sir Three Mile bayou is a good big gap that goes down into the marshes.
Q. What other gap?
A. Turkey bayou.
Q. All right. What other one?
A. Johnson.
Q. Any others?
A. Grand pass and Creole gap. That is all on the edge of the north marsh.
Q. Is Nine Mile bayou on the edge?
A. That is further west. I never went there.
Q. You have never been that far?
A. No sir, I never have been that far.
Q. Judge Zacharie asked you whether or not you all went into Grand marsh because the oysters had been exhausted to the eastward of Grand marsh. Were all of the oysters exhausted in this section?
A. They were exhausted by the water. The fresh water. They were exhausted at the other end of Grand marsh by the crevasse.
Q. Crevasse from what?
A. From the Mississippi river. They were exhausted twice in my knowledge.
Q. Where?
A. In all of the Louisiana marsh, and the Mississippi sound and all.
Q. All exhausted?
A. Every thing was killed out and has just grown up again.
Q. How long would it take them to recuperate after these overflows and freshets?
A. In two years the- would get so you could use them and in three years they would be all right.
Q. What exhausted them if they were ever exhausted from Pascagoula and about Horn island and Cat island. From Horn island to Cat island. Were there always oysters in here?
A. They did not grow there.
Q. Did they ever grow there?

A. Just here on the edge of the coast.

Q. Were they ever exhausted entirely on the edge of the between Pascagoula and Biloxi?

A. Yes sir, they were killed out twice.

Q. They were killed out in the bay of Biloxi?

A. Yes sir.

Q. Killed out all along the Mississippi sound?

A. Yes sir.

Q. When was this Captain?

A. I can not recollect what year it was, but I know very well it happened.

Q. About how long ago?

A. It has been a good many years ago. The last crevasse w New Orleans.

Q. Was not the last crevasse about 1897?

A. I believe that was when it was.

Q. That is six or eight years ago?

A. Yes sir.

Q. And then there was one about 1882 was not there?

A. Yes sir, I believe that there was.

Q. About twenty years ago?

A. Yes sir.

Q. Was there ever a time when the fisheries took them all ou made them scarce?

A. Not that I know of.

Q. You don't know of any time when the oyster catchers them scarce about Back bay and around Biloxi and Pass Christ

A. They thin the oysters out the last part of the season very but they grow up again.

Q. Has there always been a supply for the demand?

A. At Biloxi you could not furnish the demand because you to go all over these oyster reefs on the outside and Pass Chris There is the biggest part of the oysters in Mississippi.

Recross-examination.

By Col. ZACHARIE:

Q. Did you ever know prior to the Civil war of these Missis oyster fishermen going out to this Grand marsh or Louisiana m to fish oysters? Prior to the Civil war?

A. There were some of them doing it. Very few of them.

Q. Very few of them?

A. Very few of them. There was very little demand.

Q. Where did they take the oysters to; did they not take the New Orleans. They did not bring them back here?

A. There were some brought to the shops here.

Q. When did this change take place. The Mississippi oyster ermen on this coast commence going to Grand marsh or Louis marsh first. About what time?

A. Well I suppose that it must have been from about 1883 on.
Q. After these canneries were established here that created this great demand?
A. Yes sir.
Q. Well now you have spoken of these freshets in regard to these oysters about here, and over on this marsh. Is it not a fact that in two or three years after these freshets that the oysters became
1471 more abundant than they were before?
A. Yes sir.
Q. So that these freshets did not destroy the oyster reefs except for a year or two?
A. That is all.

JAMES TAPPER, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Mr. MCCLURG:

Q. About how old are you?
A. 64.
Q. Where do you reside?
A. I live in Biloxi now.
Q. How long have you resided here?
A. Well in Biloxi, I have been here off and on for about 30 years.
Q. Where did you reside before you came to Biloxi?
A. Mobile.
Q. What is your occupation now?
A. My occupation right now. Right now I am a watchman.
Q. What has been your occupation for the last thirty or forty years generally?
A. Mainly oystering.
Q. Where?
A. Well I have oystered a good deal in the Grand marsh. I have oystered in Mobile bay and I have oystered up around Biloxi.
Q. What do you mean by Grand marsh?
A. That is the marsh out here about the south west. They call it Grand marsh.
Q. South west of Biloxi?
A. Yes sir, that is what they call it.
Q. That is what is sometimes called Louisiana marsh, is it?
A. I have of late years heard it called Louisiana marsh.
Q. Do you know where Isle à Pitre is?
A. Yes sir.
Q. Turkey bayou?
A. Yes sir.
Q. Three Mile bayou?
A. Yes sir.
Q. And Nine Mile bayou?
A. I have gone through there once.

Q. And Karako bay?

A. Yes sir, I have been there.

Q. Where are these places. Are they in what you call the Grand marsh?

A. You go through the mouth of some passes in the north of the marsh.

Q. Into what?

A. Into the marsh. Through these different passes you can go into the marsh.

Q. In what State are all of these places?

A. I have always supposed that it was in the State of Mississippi.

Q. Why did you suppose that they were in the State of Mississippi?

A. Well about 15 years ago there were two men had an argument and it went so far that they went to a law book.

Q. Do you know what sort of a law book they got?

A. No sir, I don't know the number or any thing else, but it was settled between the two that it was in Mississippi. They read the part where the surveyors had come down from the north part of the two States and struck Pearl river, and they come down Pearl river and there they stopped. They went back to the north point again and went east. Took an east course.

By Col. ZACHARIE: The counsel for the State of Louisiana object to this line of testimony on the ground that this is a representation taken from a book by hearsay, which the witness has not thus far shown that he even read himself. That he has not named
1472 the book, nor the name of the surveyors with any sufficient certainty so that the counsel for Louisiana can rebut or contradict the testimony. And the State of Louisiana therefore reserves an exception to this testimony.

By Gen. MCCLURG: The counsel for Mississippi calls the attention of the counsel for Louisiana to the question asked the witness to wit:—"Why did you suppose that they were in the State of Mississippi," and submits that the witness may answer why he supposed that these places were in the State.

Q. Now, go ahead and answer it Captain. You say they started east?

A. Yes sir, the surveyors then; this is what they read in the book. I was listening to what they were reading.

By Mr. DYMOND: It is to be understood that Louisiana takes a similar objection and exception to all similar questions propounded to this witness, and Mississippi agrees that the exception may be so noted without it being repeated.

Q. Now go ahead?

A. When they got to the east as far as they were going east they come south.

Q. How far east did they go?
A. To where the boundary line was to go.
Q. What boundary?
A. Between Alabama and Mississippi.
Q. What did they do then?
A. That is how it was read. The line they got between the two States. They come down to the coast and measured it, and it said where it give six leagues from the main shore, and then turned due west. That is what they read in the argument when they got the book, and that is what made me always think that it belonged to Mississippi.
Q. Are those places that you have mentioned within six leagues of the Mississippi shore?
A. It is stated in the book that way.
Q. Do you know whether Isle à Pitre and Three Mile bayou and Turkey bayou and Johnson bayou are within six leagues of the Mississippi shore?
A. They are inside of it a good deal.
Q. Where are Karako bay and Jack Williams bay and those places?
A. Karako bay is about south from Grand pass.
Q. How far from the Mississippi shore?
A. From the Mississippi shore I would think that it is about 14 miles as far as I could judge. I could not judge exactly. I have never measured it.
Q. How long have you been familiar with these places?
A. I have run down there at different times. I run through to Mobile once.
Q. How long ago?
A. The first of my going to Grand marsh was in 1867.
Q. What part of it were you in then?
A. I was in Bayou Greecue once, catching a load of oysters for Mobile.
Q. How did you get into this bayou?
A. I went through Grand pass.
Q. You saw Grand pass then in 1867?
A. Yes sir.
Q. When did you see it last?
A. I seen it this last winter.
Q. Did you observe any material difference in its appearance and in its width the last time you saw it as compared with the first time?
A. Nothing much at all. Only I saw the camps that used to be down there were washed down. Some of the old posts are there yet. The ground is not washed away. The old posts of the old camps are there yet.
Q. What sort of camps?
A. Up on posts.
Q. Camps for whom?

A. For the fishermen that used to fish down there in the marsh.

1473 Q. Do you know anything about what they call the deep water channel?

A. There are two channels that I know about.

Q. Tell us what these two channels are?

A. One goes by Pass Christian, and another one goes by Pass Marianne.

Q. Where do they go?

A. Down by St. Joseph and into the Rigolets.

Q. Where do they go eastward from there?

A. From Pass Christian they fork. One channel comes out in what they call Cat Island channel, and the other one comes toward the black buoy.

Q. Have you ever heard anything about these channels being the dividing line between the two States?

A. I have this last year or two since this question has come up, but not before.

Q. This suit you mean?

A. This suit, and they have been trying to drive people out of the marsh.

Q. Who has?

A. Louisiana.

Q. They never did before that?

A. They never did before that.

Q. Have you ever had any trouble before that from the authorities from Louisiana. About going into Grand marsh?

A. Not a bit sir, not before that.

Cross-examination.

By Mr. Dymond:

Q. Now Captain as I understand it you were present at a discussion in regard to the line between Mississippi and Alabama?

A. It was both lines. Did not take Alabama any more than the other one. Both lines were surveyed at the same time.

Q. How do you know?

A. The way that they talked it. They got down to Pearl river first as I understood it and went back to the north point where they started from, and then went due east if I remember what I heard, and then they come south after they went far enough for the coast.

Q. Well now Captain, this is not so; you must have read?

A. I did not read it at all. I heard them read it.

Q. You must have read the act of Congress creating Mississippi. That description of Mississippi begins at the north west corner of the State, and that goes on to say that it comes over to Bear creek in the county of Washington, and then comes south to the shore and then westwardly including all of the islands within six leagues of the shore. That is probably the book that you read?

A. No sir, I never heard no such thing said. The only thing is t one of the surveyors made a new line coming down Pearl river. at is where it stated in the book. Where the surveyors took new line, and where they shifted the line I think it was through ke Borgne. Where they shifted the line. Was not the line shifted ne time?

Q. There was some additional territory added to Louisiana in 2?

A. That is where the line was drawn at that time.

Q. Mississippi was not created until 1817 five years afterwards?

A. This was stated in the book where the surveyor come down to mouth of Pearl river, and at the mouth of Pearl river, they ped and went back to the north point where they started from, went east, and when they went far enough to the Alabama line y come south to the coast, and there they stated six leagues from shore, and then due west.

Q. Now this six leagues from the shore and due west began at the bama and Mississippi line did not it?

A. That is the line coming this way.

Q. Did you understand the question, Captain?

A. Not thoroughly I did not.

Q. In your understanding of this book the first mention of six gues from the shore was in reference to the point starting at the bama line, then going west was not it?

A. At the end of this six leagues he would go west.

Q. In starting west it began at the Alabama line did not it?

A. Yes sir, when it ended at the west line of course it must have ped at the Alabama line.

Q. And going westward it started at the Alabama line and went t?

A. Yes sir, that is what it did.

Q. Because the State had the islands within six leagues from the bama line you think that she ought to have the islands within leagues of the Louisiana line?

A. I don't think any thing of that kind. I only just thought it what I heard was right because it happened to be the law.

Q. Well now Captain I take you to be an intelligent man and as have answered the question in the beginning I will repeat it to to see if you understand it. Was not it because Mississippi was et six leagues beginning at the Alabama line and going west- d that you thought she ought to get six leagues on the western ?

A. That is right. That is what I thought she ought to have.

Q. Now you don't know whether the islands on the westward in six leagues of the Mississippi line had all been given to Lou- na. You don't know that do you?

A. Well where are those islands?

Q. You don't know whether the islands on the westward within

six leagues of the Mississippi line had all been given to Louisiana. You don't know that do you?

A. No sir, I don't know that.

Q. Now are there any islands to the westward that are within nine miles of Louisiana, and yet within 18 miles of the Mississippi shore?

A. Well, I don't call the marsh islands. I never did think that marsh was an island.

Q. Therefore in this Grand marsh there are no such things as islands in there?

A. I don't think there are. I think there are settlements there and currents. In my experience and I know it from my experience that I have seen marsh grow. I can show in the Grand marsh now three different currents where there has been marsh grown there 300 yards from what I remember.

Q. What you consider islands are islands like Ship island and Cat island?

A. Yes sir.

Q. And this other stuff you consider marsh?

A. Yes sir.

Q. Now take Grand island. If the map calls that an island you disagree with the map? Grand island and Half Moon island?

A. I don't think that is an island. It has just been made by the marshes and drift.

Q. You were not there when it was made were you?

A. No sir, but I have seen some made since. I have seen such things as this that I can remember.

Q. Have you ever seen them disappear?

A. I have by currents.

Q. Washed away?

A. By crevasses.

Q. By storms?

A. More crevasses than storms.

Q. Crevasses would not ordinarily wash they away?

A. Yes sir, a heavy crevasse will *east* most any thing away.

Q. That is the current?

A. Yes sir.

Q. Produced by the crevasse?

A. Yes sir.

Q. What builds them up?

A. Why the tide.

Q. What has the tide to do with it?

A. Wherever there is a tide there is always some still water some where, and this still water is where the drift will go and settlements form.

1475 Q. What do you call drift?

A. Well there is always drift around on the top of the waters. There is grass and logs and different things that are drift, and settlements of mud.

Q. What is this Louisiana marsh?
A. I call it nothing but settlements.
Q. It is mud?
A. That is what it is. You can take a pole if you go there and et it through this hard crust and you can run it down 25 feet. here are places there now that you can stand on and shake it.
Q. That is what you call settlements that are brought there by evasses?
A. Brought there by currents. You will find it there in places. ere in Mobile and here in Pascagoula. Anywhere where there re two currents that come together that way. In between these vo currents there is a settlement.
Q. Well now Captain do you know the difference between the soil n Cat island and Isle à Pitre.
A. Yes sir.
Q. Have you ever noticed it?
A. Yes sir.
Q. Now Captain I show you two samples of soil. One marked mple No. 1, and the other marked sample No. 2, and I will ask ou to pick out of these samples the one that came from Isle à Pitre, nd which looks most like the Isle à Pitre soil?
A. Well this is sand. I never have found any of that on Isle à itre. That is sample No. 2.
Q. I repeat the question Captain. Which of these two samples most like Isle à Pitre soil?
A. Both might come from Cat island. There is a marsh on Cat land too. Any body can go on Cat island and get marsh land and ring it in here. That would not condemn me a bit.
Q. I am not trying to condemn you or to hang you either. I am ying to get you as an intelligent man. If you will *to* confine your- lf to the question that I have asked you I think we will get along etter?
A. I have heard the questions asked these other men and I see here they have been pretty badly run over by the questions.
Q. Well we will try and not take any advantage of you Captain, nd I repeat the question I have just asked you. Which of these vo samples, one marked No. 1 and the other marked No. 2, is most ke the soil of Isle à Pitre?
A. This is not soil at all. It is sand.
Q. I am not asking you that question Will you please under- and the question first. Do you know what the soil of Isle à Pitre oks like?
A. Well there are different kinds of soil.
Q. I am not asking you how many different kinds. I- there are thousand kinds or a million kinds. I am asking you the simple uestion. Do you know the soil of Isle à Pitre. If you do not I do ot want to ask you any more questions?
A. I have seen it. I have seen soil just like this here there.
Q. If you will keep your answers separate and make them re-

sponsive to the questions. Do you know the character of soil at Isle à Pitre. Do you know the character of the soil in a general way?

A. I will tell you about this marsh——

Q. I am not asking you that. Have you ever been on Isle à Pitre?

A. Yes sir, I have.

Q. Have you ever examined the character of the soil on Isle à Pitre?

A. I have walked on it from one end of it to the other.

Q. Have you ever paid any attention to the soil and looked at it?

A. Yes sir, it is something like this. I can not tell you any thing more about it. This sample No. 1, is something like the soil that I have seen out here some times.

Q. Now does this sample No. 1 look more like the soil of Isle à Pitre than sample No. 2?

A. It does in some places. There are different kinds on Cat island. You can get the same kind on Cat island.

1476 Q. Now does this sample No. 1 look more like the soil on Isle à Pitre than sample No. 2? If you would not jump at conclusions and go slow and answer the question I think we would do better. I don't want to get anything out of you except what is going to come willingly. I want you to understand the question and answer it in an intelligent way which I know you can do.

A. I am trying to do the best I can.

Q. I know you can Captain. If you will free yourself of the idea that I am trying to take any advantage of you we will get along all right. Let's go back to the subject again. I understood you to say that you knew the character of the soil on Isle à Pitre?

A. Yes sir.

Q. You know the character of the soil on Cat island in a general way?

A. Yes sir.

Q. If you will look at sample No. 1. Did I understand you to say that that looks more like the soil of Isle à Pitre than sample No. 2?

A. Yes sir.

Q. And sample No. 2 looks more like the Cat Island soil than sample No. 1?

A. Yes sir.

Q. You don't know where they come from?

A. No sir.

Q. Will you kindly look at this map marked map No. 59?

A. This is some thing that I am not much acquainted with is maps.

Q. If you will look at this map No. 59 you will notice in the north west corner the Rigolets, and just a little east of that Pearl river. You spoke a moment ago about the channel. Will you

please now notice Pearl river and follow eastward through what is called Grand Island pass?

A. I never heard it by that name.

Q. You call it what. Herron pass?

A. We call it the channel.

Q. You will notice then from there eastward that the channel forks, one going to the north east and the other going almost due east?

A. Yes sir.

Q. Is that the fork that you were speaking of a moment ago?

A. No sir, here is the fork that I was talking about at Pass Marianne, where the channel goes inside of Cat island and one went outside of Cat island. That is the fork that I was talking about.

Q. Do you know any thing about the fork that branches out immediately as the channel leaves the eastward of St. Joseph?

A. I think that I have sounded it.

Q. Have you ever sailed along this line running eastward from the St. Joseph channel towards the Southwest pass. Going between Cat island and Isle à Pitre?

A. Yes, sir, I have run that.

Q. Have you known that channel as long as you have been in the business?

A. Not since I have been going to Grand pass, I have not, but I have later on.

Q. And this channel you had reference to as forking is the one that goes up to Merrils shell bank, and branches, one going inside of Cat island and the other down between Cat island and Isle à Pitre?

A. Yes sir.

Q. The southern branch of this channel is not indicated on this map is it?

A. No sir. I guess there are some shoals in there between it, but there is deep water there too that the boats come up. Of course I have never used a chart. I have always done the soundings with a pole when I had to sound.

Q. Have you ever fished in Drum bay?

A. Yes sir.

Q. Did you ever fish in Indian Mound bay?

A. Yes sir.

Q. Did you ever fish in California bay?

A. I don't know it at all.

Q. Did you ever fish around Martins island?

A. Yes sir.

1477 Q. When you were fishing in Drum bay and around Martins island were you still fishing in Mississippi?

A. I suppose so.

Q. You thought that was within 18 miles of the shore?

A. I thought that it was inside of the 18 miles.

Q. If this is outside of the line now claimed by Mississippi and south of it you are mistaken about that?

A. Well the way that I understood it if it was on the outside it belonged to the United States.

Q. Then you think that any thing that does not belong to Mississippi belongs to the United States?

A. That don't belong to Louisiana or Mississippi either. I suppose that any thing outside of that is supposed to belong to the United States.

Q. Although Mississippi has 18 miles from the shore. No other State can have 18 miles from the shore except Mississippi?

A. I thought that Louisiana had nine miles.

Q. If Louisiana had nine miles why would you think that every thing else would belong to the United States? Did you not think that Louisiana would be entitled to the nine miles if the act of Congress said so?

A. Of course she is.

Q. Did you ever determine where this nine mile line would run?

A. It came from the main land the same as Mississippi I suppose.

Q. Do you know where the main land of Louisiana was in 1812?

A. No sir, I was not born then.

By Col. ZACHARIE:

Q. Captain what is your occupation now?

A. I am a watchman.

Q. How long have you been a watchman?

A. For six months.

Q. In whose employ?

A. I am in the employ of the Barataria Company.

Q. That is the Barataria Canning Company?

A. Yes sir.

Q. Located where?

A. At Point Cadet.

Q. That is an oyster cannery is it not?

A. That is what it is.

Q. It is considerable interested in this controversy is not it? From a money point of view?

A. There has been nothing said to me about it.

Q. I did not ask you that Captain. I asked you whether the cannery by which you are employed is largely interested in the result of this suit?

A. Of course it is interested.

Q. They get a large portion of their oysters from this territory?

A. They get most of their good oysters down there.

Q. This company is located at Biloxi in the State of Mississippi?

A. Yes sir.

Q. If they do not get these oysters they have to supply otherwise?

A. I would suppose so.

Q. They would have to stop if they could not get them would not ey?
A. I suppose so.
Q. And you would lose your job?
A. That would be certain, but that don't affect me at all; I have ner jobs that I could go to.
Q. I am not asking you that. I am asking you for the facts and t for conclusions. Where did this dispute or argument take place regard to this boundary line which you have narrated in your gument in chief?
A. About Bayou Pierre in the Grand marsh.
Q. About what time did it take place?
A. It was about fifteen years ago.
Q. Who were the parties that were disputing?
A. There was one party named Bill Smith and another called Paddie Burns.
78 Q. And they read the book there?
A. No sir.
Q. Where did they read the book?
A. They waited until they got down here.
Q. Where?
A. They come here. Right here. I don't know where they got s book. But Bill Smith stated that he knew where there was a ok that stated where the lines were.
Q. Do you know where they got this book from?
A. No sir, I do not except I happened to be there at the time of e argument and at the time they read the book. Because I was erested that far. I wanted to hear it.
Q. How did you happen to be present on the return from Bayou erre when the book was produced?
A. I was at the argument there.
Q. Did they send for you?
A. No sir, I was on one of the boats.
Q. I mean when you got back here to Biloxi?
A. I come on the same boat with one of them. I came from out ere in the marsh.
Q. Was the production of this book immediately after their return Biloxi?
A. No sir, not exactly. It might have been a week or two weeks erwards.
Q. And how does it happen that you happened to be present just actly when this book was produced and read?
A. I told you that I was running on the same boat.
Q. I understand that, but I am speaking of what occurred in oxi when the book was produced? Did you stay together in the ne house when you were ashore?
A. We did not hardly ever stay ashore. We were on the boat. e would come ashore and — right back on board of the boat again. e did not make no residence there.

Q. Was not this Bill Smith the man that kept the Hole in the Wall?

A. No sir, it was not him at all.

Q. It was another Bil Smith?

A. Yes sir.

Q. You can not tell us the names of any of these parties who were mentioned as having made this survey that you spoke of that was read from the book?

A. No sir, I don't think it mentioned the names of the surveyors. It only stated that they surveyed. I do think that it gave the head man's name, but I could not remember it.

Q. Was it Ellicut?

A. I could not remember that.

Q. Do you know by whom this book was published?

A. It was published either by Congress or the State, I don't know which.

Q. What State do you mean?

A. I could not tell you that. Now that is somethin*k* that I could not tell you, but it was the laws. I think that it was the laws of Mississippi, or some other law I could not tell you, but I know that they took the book out there and read this part. They turned the leaves until they found this part and they read it, and then they took the book back to the owner. I don:t know where the book came from. That is all that I know about it.

Q. You stated in your examination in chief that you first visited this Grand marsh as you call it in 1867?

A. Yes sir.

Q. Where were you then residing?

A. I was at Cedar point, in Alabama.

Q. Where is Cedar point, in Alabama. How far distant from Mobile?

A. About 35 miles.

Q. What did you go to this marsh for?

A. Oysters.

Q. Were not there plenty of oysters at that time on this coast in 1867 along by Pascagoula and between there and Mobile?

A. There were certain kinds of oysters, but not the kind of oysters that we wanted.

1479 Q. What particular kind of oysters did you want?

A. We were hunting what they call plants at that time. We were getting three dollars a barrel for them in Mobile.

Q. Are there not a number of bays and streams entering between here and Mobile in which there are plenty of oysters? Plenty of plant oysters?

A. Yes sir, but they are owned by owners.

Q. I understand, but were there no natural reefs at that time from which you could procure oysters?

A. Not big oysters. There were plenty of reefers.

Q. What do you mean by plant oysters?

A. The plant oyster is a big oyster.

Q. Do you mean that a plant oyster comes from the natural reefs an oyster that has been taken from the natural reefs and planted?

A. Well I will tell you. That name plant comes from the oyster that has been planted. But still we have found them naturally as big as they plant *plant*, and just as good oysters, in different places in the soft mud where they will grow fine.

Q. Is it not a fact that among oyster men, a plant oyster is known as an oyster that has been taken from the natural reefs and planted in a private bed for private persons?

A. I don't understand your question.

Q. I say is it not a fact that amongst oyster men the word from which plant oyster as used has been taken from the natural reefs and planted, and those plant oysters are the property of those who have planted them?

A. That is what I stated. I said that the first name came from oysters that had been planted, but we have found oysters that equal them and we have called them plants.

Q. You call them plants when they are not really plants?

A. They are not plants but the natural growth.

Q. Were there not at this time plenty of oysters of that description both to the east and the west, and from there to Mobile. Plenty of these plant oysters?

A. No sir, except those that were owned by owners.

Q. I mean these plant oysters that you say that you got from the natural reefs?

A. No sir, not for the market's demand at that time.

Q. You say you first went there to this Grand marsh in 1867?

A. Yes sir.

Q. How long did you remain there and how many trips did you make there?

A. Well I never counted the trips exactly. I have stayed there three or four months at a time.

Q. You have camped there?

A. Yes sir.

Q. When was this?

A. In 1880 that I stayed there for four months without coming home.

Q. When next after 1867 did you visit there?

A. Well I think that it was about 1880.

Q. So that there was an interval of 13 years was not there?

A. No sir, I had been off and on through the marsh, every winter a few trips, but I had not been steady going down there.

Q. Were you in business for yourself or did you go with the boat as an employee?

A. I went with the boat catching oysters.

Q. As an employee?

A. No sir, on shares.

Q. Are either of these men with whom you had this dispute or argument and who produced this book. Are they alive?

A. I think there is one of them, yes sir.

Q. Where?

A. In Mobile.

Q. Can you by any means ascertain for us before this examination closes *with* the name of this book is and where it can be found?

A. I will try sir.

By Mr. DYMOND:

Q. Captain will you look at this map that is No. 59 for a moment and direct your attention more particularly to Cat island.

1480 Are you familiar with that soil of Cat island?

A. I have been on Cat island, yes sir, and I have seen the soil.

Q. Is not the soil of Cat island most largely this white sand like Ship island and Horn island?

A. A good deal of it is yes sir.

Q. As a matter of fact is not Cat island the only island that has this white sand mound out there?

A. No sir, it is not.

Q. Has any other island on that coast a mound as big as that?

A. Not quite as large, but there is some. On the south side of this island you will find it as high as twenty feet high.

Q. Now Captain is it not a fact that Cat island is noted for its large white sand dune and you can see it for a number of miles off before you get to the island?

A. It is a fact that it is higher than any other place, but there are other islands out there with the sand on them.

Q. When you speak of the other islands you speak of Ship island and Horn island and Petit Bois and Dauphine island?

A. Yes sir.

Q. And all of these islands beginning at Petit Bois and taking in Horn and Ship island, Cat island is conspicuous for its high white sand dune?

A. It is higher than any other.

Q. Well now Captain is not that due to the fact that the southwest winds striking South spit, and coming up between it and the main body of the island, forces the wind into a narrow space and that carries the sand up into a pile?

A. I have stood on these islands and watched the sand move myself.

Q. Moved by the wind?

A. By the wind.

Q. Does not the conformation of these islands have an influence in making this high sand dune there?

A. It may between these trees where there are woods there, because there is a big bending to the southward, more so than there is right there. There is a space between the two woods where the sand hill

is. This sand moves by any wind, and it will get up about an inch from the body of the sand and keep moving until it gets to the top and then it will fall, just like the water falls.

Q. Well now Captain you did not find any of this character of sand on Isle à Pitre or down in the Louisiana marshes, did you?

A. No sir, I have not found any of it.

Q. You said awhile ago that perhaps sample No. 1, which it was claimed was taken from Isle à Pitre might have been taken from a part of Cat island. Will you please indicate on map No. 59 at what part of Cat island such a sample could have been gotten there?

A. Which, that sand?

Q. No, not the sand. This soil or mud?

A. That could have been taken from a place that they — Nigger point.

Q. Where is that on the map?

A. (The witness shows the location of Nigger point on the map.)

Q. Is that right up in the convexity of the South spit or main part of the island?

A. It is on the south part.

Q. It is called on the map Little bay is it not?

A. It is called here Nigger point.

Q. It has no name on the map. I think on the map it is called Little bay?

A. Yes sir, it must be way up here where they call it Little bay. It always went by the name of South bayou.

Q. Do you know a place called Middle spit?

A. Not by that name.

Q. Do you think that there is a soil of the character of sample No. 1 there?

A. Yes sir, I think there is.

Q. Have you ever examined it there?

A. No sir, not exactly, but I have seen just such soil.

Q. What is the character of the soil on South spit?

A. That is sand.

Q. Is not there soil out there near the light house of the same character as this?

1481 A. There may be because there are a few lumps like that that have been washed there by the current.

Q. Have you noticed to see whether it is white or not?

A. Some places are white and some places are bare where the sand is washed off as clean as that table, and there is nothing but a kind of dirty clay underneath.

Q. Where are these places. On this point to the west?

A. Between the point and the light house.

Q. Which point. East or west?

A. The west point.

Q. What is the character of the bottom from this Cat Island channel. Is it hard or soft?

A. In some places it is sand and shallow, and then a hard sticky

bottom, and reefs. There are oyster reefs on the edge of it, and there are the old shoal banks on the south of it. Old channel.

Redirect examination.

By Gen. McCLURG:

Q. Captain did I understand you to say that samples No. 1 and No. 2, which have been shown you by counsel for Louisiana may be found on either Cat island or Isle à Pitre?

A. It may be found on either one. Cat island has a marsh too. Marshy appearance like that.

Q. And sand?

A. And sand.

Q. Cat island has soil like muck No. 1 and sand No. 2?

A. Yes sir.

Q. And Isle à Pitre has both?

A. No sir, I could not say. There might be some fine shell but I never have seen any sand on Isle à Pitre. It might have been put there, but I have never seen any there.

Q. You have seen this *much* like sample No. 2 on Cat island?

A. Yes sir I have. I have seen it at both places.

The commission here adjourned until nine o'clock tomorrow morning.

1482 United States Supreme Court.

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI.

Vol. 2, p. 304 to 610, incl.

1483 And thereupon the commission met this morning, June — at nine o'clock, there being present Hon. Wm. D. Bullard, commissioner, and Gen. Monroe McClurg, counsel on behalf of the State of Mississippi, and Col. F. C. Zacharie, counsel on behalf of the State of Louisiana.

J. B. MORAN, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLURG:

Q. Where do you live?
A. Across Back bay sir.
Q. How far is Back bay from Biloxi?
A. Across Back bay it is very near a mile sir. Within a few hundred yards of it. Maybe 100 yards.
Q. By the Back bay you mean the bay of Biloxi?
A. On the other side of the bay.
Q. That is the bay of Biloxi?
A. Yes, sir, the bay of Biloxi. But I live on the other side of it. I was born and raised over there.
Q. How old are you?
A. I am 68.
Q. You were born and raised on Biloxi bay?
A. Yes sir.
Q. And near its entrance to the Gulf?
A. Yes sir.
Q. Are you familiar with the water between Back bay and Pearl river?
A. Yes sir, I have run schooners out there from New Orleans.
Q. How long.
A. Well it is thirty years ago since I quit.
Q. It has been thirty years since you quit?
A. Yes, sir, thirty years since I quit running to New Orleans on a schooner.
Q. When did you first begin running to New Orleans?
A. Since I was ten years old. I run there with my father when I was ten years old.
Q. Do you know what is called the deep water channel out of the mouth of Pearl river going eastward?

A. I never knew it until here lately. I have heard talk of it. I never run those channels. From here to New Orleans we passed on the inside channels.

Q. Did you ever engage in the oyster fishing business?

A. Yes sir, I fished some oysters. Here lately, about two years ago I quit.

Q. State whether or not you ever knew or heard of the deep water channel being the dividing line between the States of Mississippi and Louisiana?

A. Only here lately I heard some talk of it. I never heard anything before, but here lately I have heard some talk of it.

Q. Do you know where Isle à Pitre is?

A. Yes sir, I have been there.

Q. How long since you were there?

A. It is two years since I have been there.

Q. How long have you known Isle à Pitre?

A. I have been knowing it and I have heard of it for the last forty years.

1484 Q. When did you first see it?

A. About ten years ago. I went oystering and went around in the marsh and got some oysters. As far as Three Mile bayou.

Q. You went as far as *from* Three Mile bayou?

A. Yes sir.

Q. Did you ever go as far as Nine Mile bayou?

A. No sir, I never went in there.

Q. It was ten years ago that you were down there?

A. Yes sir.

Q. How did you go?

A. I went in a boat.

Q. What sort of a boat?

A. Flat bottom skiff; sloop that carried only fifty barrels of oysters.

Q. How much water did she draw?

A. A foot and a half.

Q. In what part of the marsh did you go?

A. I went as far as Three Mile bayou, and about Boudreaux, and down to Drum bay and Morgan harbor and such places as that, to get what they called plants.

Q. Going in there at Three Mile bayou how far could you go down with your sloop?

A. Down to the southward?

Q. Yes sir.

A. I could come out and see from there to American bay through the marsh.

Q. Was there plenty of water to go through there?

A. Yes sir, you could draw five feet of water there if you would follow the right places.

Q. Going through Three Mile bayou with a boat drawing five feet of water, to the southward could you pass down as far as Drum bay?

A. Yes sir.
Q. And California bay out into the sea?
A. Yes sir.
Q. Were you ever at Indian Mound bay?
A. Yes sir.
Q. How did you get there?
A. Well from going down through Three Mile bayou you would come right down into Indian Mound bay.
Q. Was there any trouble in that?
A. No sir, no trouble. Some times you would find shoal places, but if you followed the channel you were all right.
Q. How much water is there there?
A. I never sounded the bayou, but from the looks of it it looked like there was ten or fifteen feet of water at the mouth going in it.
Q. At Indian Mound bay?
A. No sir, Three Mile bayou. A good head of current goes through there and makes it deep.
Q. How about Turkey bayou?
A. Well the mouth of it is a little deep, but after you get on the inside it is a little shallow. Two or three feet of water is all that you can get in there.
Q. Did you ever go through Turkey bayou?
A. No sir, I have gone in there but never through it.
Q. Johnson bayou?
A. Yes sir, I was in there.
Q. How much water is there in there?
A. There is enough water at the mouth to go in there with
1485 a boat drawing five or six feet of water. If you do not follow the right channel though you will get on the shoals.
Q. About Grand pass. Were you ever through Grand pass?
A. Yes sir.
Q. Creole gap. Did you ever go through there?
A. Yes sir, I have gone through there many a time.
Q. With your boat?
A. Yes sir, and I have gone through Grand pass and Creole gap drawing five feet of water and never touched bottom.
Q. Were you ever in Johnson bay?
A. Yes sir.
Q. You have been — Bayou Grecque?
A. Yes sir, many an oyster I have caught out of there.
Q. Where did you first get oysters out of Bayou Grecque?
A. That is somewhere about 12 years ago, the first beginning 10 or 12 years ago.
Q. Were you ever disturbed in there by the Louisiana people?
A. No sir, I was not bothered by anybody at all.
Q. Do you know where West Karako and East Karako are?
A. Yes sir.
Q. Brush island. Do you know where that is?
A. Yes sir, that is right on the edge here. That is on the east side.

Q. Do you know where Raccoon island is and Little Raccoon?

A. Yes sir, you pass along by the side of it to go to Indian Mound bay. Right by the side of it.

Q. What sort of a country is that down there?

A. It is nothing but a marsh.

Q. What do you mean by a marsh?

A. It is low ground that you can hardly walk in it. You go in it and you will bog up in places. If the water is any ways high you cannot walk in it at all. It is nothing but mud and water.

Q. Does the tide submerge it?

A. Yes sir, the least tide goes all over it. It is nothing but bayous and waste and lakes.

Q. Is there any industrial life there such as farming and gardens and stock raising?

A. No sir, I never saw any at all down there.

Q. Nobody lived in there?

A. No sir, no one that I know of except there used to be a camp there.

Q. Is that down at Cat Fish pass?

A. Yes sir, they used to be eaten up by the mosquitoes and ground flies, and you could not hardly live down there. It was just these Cicilian kind of people that could live down there.

Q. What was their occupation?

A. Fishing. Catching fish and sending them to New Orleans.

Q. Well now in what State are those bayous and passes and islands that we have just been talking about?

A. Well I have always heard that they were in Mississippi as far as I know. We always thought that it was in Mississippi.

Q. Where did you first begin to take oysters. What part of the marsh?

A. Creole gap is where we began.

Q. Did you ever go in there around Half Moon island?

A. Well I have fished off there just in passing in going to New Orleans and coming back. Sometimes in a calm I would catch a few to eat, but I never fished there to sell them. On the schooner I had a pair of rakes and sometimes I would catch a few to
1486 eat. But the schooner that I have now has caught a good many around there. Dredged them.

Q. How much draft has your schooner?

A. Ten tons.

Q. How much water does she draw?

A. She draws two and a half feet light.

Q. And she goes all through these marshes?

A. Yes sir, come out of there with a load drawing four and a half feet of water.

Q. Could she go through Three Mile bayou drawing four and a half feet of water?

A. Yes sir, she could. I have come through there with her deep loaded.

. How long ago?
. Well that is some ten years ago.
. Have you noticed any material changes in these marshes since first went in there?
. Not at all. I think that it is grown up in some places. In e places where there is a current there is some dead water and marsh settles there. I know places that has grown up twenty in the last few years.
. Were you ever at Malheureux point?
. Yes sir, it is near St. Joseph is it not?
. Yes sir.
. I am not acquainted with the name. I have never heard that e, but I know that it is around there some where. It is to the thward of Herron island some where. I call that island Grassy nd. I never heard it by that name before.
. Do you know where the Marianne islands are?
. Yes sir.
. What has been your understanding as to the limits of the Mis-ppi boundary?
. I have always heard from my father when I was going to town h him, he told me from the mouth of Pearl river due south 18 es was the State limits.
. When was it that your father told you that?
. Well that is sixty years ago.
. How long did your father live here?
. He was born and raised here. Right across the bay. My ndfather was from Canada.
. Do you know when your grandfather came here. About what e?
. I don't know sir. My father never told me exactly.
. How old a man was your father when he died?
. He was 75.
. He was born here?
. Yes sir, raised and born here right across Back bay.
. And it was from him that you first learned that Mississippi ts run due south from Pearl River mouth 18 miles?
. Yes sir, he was the one that told me and I have heard it many es since.
. Can you say whether the people along the coast have to your wledge *have* regarded that as the limit of the State line?
. Yes sir, they always did from what I could hear.
. 18 miles from the shore?
. That is what I have always heard.
. And until recently there has been no molestation of any people oing within these limits?

A. Yes sir, since they sorter stopped people from going in these limits I have not been out on the boats any more.

Q. You have not been since that?

. No sir, my son runs schooners to the reefs at Pass Marianne.

Q. What is your regular business?

A. I used to follow the business of fishing oysters and farming some little.

Q. What are you doing now?

A. I am farming a little bit. I stay at home and farm a little for my own use. Not to speculate.

Q. Can you say whether or not the oysters are as plentiful in the neighborhood of Back bay and Biloxi and Cat island and Marianne island as they ever were?

A. Yes sir, I think they are. They have been caught up some but still they grow fast. As long as we don't have any freshets. They destroy them. Plenty of rain destroys them and then it is a couple of years before we have any more.

Q. The fresh water is death to them?

A. Yes sir, it kills them in Back bay and around here when we have heavy rains.

Q. What is considered the richest oyster country in this neighborhood?

A. Well I could not hardly tell you because there are places where they will grow better than others, and therefore I could not say exactly, but over in here they grow almost any where, but in some places they grow better oysters.

Cross-examination.

By Col. ZACHARIE:

Q. When did you first visit this disputed territory?

A. When did I hear about it.

Q. When did you first visit it. When did you go there first?

A. Well that is some where about ten or twelve years. I could not say exactly.

Q. Was that the first time that you were engaged in the oyster fisheries?

A. Yes sir, around in that limit. I fished oysters around in Back bay here, but not any out there.

Q. What is this territory commonly known as among the fishermen. What do they call it?

A. We have always called it Grand marsh.

Q. Have you not frequently heard it called among the boatmen Louisiana marsh?

A. Only here lately I have heard it called that. Since they stopped the people from going out there.

Q. Has it not been a common thing ever since these canneries have been established here in Biloxi, when you asked them where they got their oysters from they would tell them that they got them from the Louisiana marshes?

A. No sir, I have not heard that until lately since they had this dispute about it. I was in the marsh there but I never heard any thing about it.

Q. You spoke of plying in the New Orleans trade. What was the draft of your schooner?

A. I was running a schooner that drew five feet of water. Some times I could load her deeper.

1488 Q. What was the character of her build. Was she flat bottomed skiff built?

A. No sir, she was a round bottom boat.

Q. You have been speaking of a small sloop of about 50 tons?

A. No sir, 50 barrels. She would carry fifty barrels. She was only five tons.

Q. How much did she draw?

A. A foot and a half sir light.

Q. Is she the vessel in which you used to traverse the marsh?

A. Yes sir, and fishing oysters.

Q. Drawing one and a half feet?

A. Yes sir, and then I had a schooner after that that I went in.

Q. How much did she draw?

A. She drew two and a half feet.

Q. You never have gone through this marsh with any vessel drawing any more?

A. No more than four and a half or five feet of water. I never had any occasion to have a boat drawing any more water.

Q. You don't know much about the depth of these waters except in the mouths, and in the beginning of them?

A. No sir, there are bayous in there. You will find places in these bayous where you will find twenty feet of water or more.

Q. In spots?

A. Yes sir, in spots.

Q. You have mentioned that you have fished oysters as low down as Turkey bay?

A. Yes sir.

Q. Have you ever fished oysters as low down as Martin's island?

A. Yes sir, that is further north this way.

Q. Did you ever fish oysters in California bay?

A. Yes sir.

Q. Did you ever fish oysters back in Quarantine bay?

A. I don't know where that is.

Q. Back of the old Louisiana quarantine station?

A. No sir, I never went down there.

Q. What is the furtherest place that you ever fished oysters in to the south?

A. In California bay.

Q. Have you ever fished oysters down in American bay?

A. No sir, I have gone down there, but I never fished oysters down there.

Q. You say that you regarded this territory as Mississippi territory?

A. Yes sir.

Q. Do you mean to say that you regarded this territory as far

south as Martin island and California bay as a part of the Mississippi territory?

A. Yes sir, I do.

Q. What do you base that belief on?

A. From what I have heard of the whole business.

Q. That is mere hearsay testimony of others?

A. Yes sir.

Q. That is their opinion?

A. Yes sir.

Q. What year was it if you can fix it approximately when you first visited this territory?

A. This marsh?

Q. Yes sir?

A. Well I don't exactly know, the year exactly but it was somewhere between ten and twelve years. I could not say exactly
1489 the year that it was in. I don't hold such things as that in my mind.

Q. Then how long did you continue to visit this territory and fish oysters?

A. Well I suppose it was somewhere along eight or ten years that I did it, and then I quit here as soon as I heard about this dispute about this limit.

Q. Now when you first commenced fishing oysters in this territory did you ever hear any discussion or dispute as to what State this territory belonged to? These marshes?

A. No sir, I never did.

Q. You never heard that?

A. No sir.

Q. You only heard the rumor talked about that in the opinion of some it was Mississippi territory?

A. Yes sir.

Q. You never took the trouble to examine any books?

A. No sir, I have very little learning, and I never read but very little. In my days I could not get any schooling. I had to work very hard for a living.

Q. I believe that you have stated that one reason why you believed that to be Mississippi territory; that one of your grounds for believing that was that you were never molested or interfered with by any officers from Louisiana?

A. No sir, no one at all. No one whatever.

Q. Is it or is it not a fact that at one time there was a large abundance of oysters in the neighborhood of Biloxi and along this Mississippi coast?

A. Well I don't know. There are plenty of them here now. As many I think as when I was a child. I will tell you where they are now though. They are in deep water.

Q. Were not there in your young days a large amount of natural reefs in Back bay?

A. Yes sir.

Q. And along Deer island?

A. Yes sir, there are oysters growing all about in places like that.

Q. In front of Biloxi along the channel?

A. Yes sir, along there.

Q. Between the shore and the channel?

A. Yes sir, along the shore. In the channels there were very few.

Q. How was it to the west ward running up. Were not there a great many natural oyster reefs running south west of Pass Christian?

A. Yes sir around in there.

Q. Were not there a great many natural oyster reefs to the eastwards towards Pascagoula and even further?

A. Yes sir in shore there and down as far as Alabama and Portersville and along in there.

Q. Now when to your knowledge did the oyster men in this neighborhood first commence in any quantity to go to *to* these marshes for oysters?

A. Well I could not say exactly as to the time. It has been some years but I could not say how many years, since they began to do it exactly. I do not keep a record of such as that.

Q. Now has not it been the custom and habit of the oyster fishermen along this coast for many years to fish oysters indiscriminately during the summer time when they were spawning?

1490 A. Yes sir, they have done it.

Q. Now has it not been their custom for many years, say prior to 1886 not to cull the oysters on the banks but to cull them on the shore?

A. No sir, I never heard of it I always culled them on the reefs where I caught them myself.

Q. I am not speaking about you, but the general custom and habit?

A. Yes sir, as far as I know that has been the habit.

Q. It has been the habit of these people when they got a load of oysters and when the wind was favorable to go home to cull them as they went along and to cull them after they got home?

A. I never have seen that. I have always stopped and culled them where I caught them.

Q. Is it not a fact that up to a comparatively recent time that the State of Mississippi has had no oyster commission and no laws regulating the oyster fisheries?

A. She tried to do it here lately.

Q. No, but I mean for a long time back?

A. Not that I know of for a long time back. They culled their oysters generally where they fished them.

Q. I am speaking of the laws. Was there any commission here in Mississippi or any laws regulating the taking of oysters?

A. I don't think that there was at that time.

Q. Now is not it a fact that this habit of fishing these oysters

during the spawning season, that they culled all of the oysters in transit and on shore, and with the great demand that has been created by these canneries, that your oyster fisheries here in the immediate neighborhood of Biloxi and this immediate vicinity have been almost ruined by this constant drain?

A. This dredging?

Q. And is it not also a fact that owing to this fishing out of season and not culling on the banks and this great demand of the canneries, that for the first time the fishermen along here commenced to go to these marshes to get oysters because the supply was limited here?

A. No, there were oysters here and have always been. That was for the raw oysters and not the canning.

Q. I say, was not it attributable to these three causes which made the supply insufficient, and to supply the demand these Mississippi fishermen for the first time began in any number to go to these marshes for oysters?

A. Well I don't think that they went there until they got these canning factories.

Q. Can you tell us what year these canning factories here first come into operation?

A. No sir, not exactly I can not.

Q. Was it along early in the '80's.

A. Some where along there I think. I could not say exactly though because I never kept no record of it.

Q. Now you have spoken of freshets. The fresh water which from time to time you say have destroyed the oysters?

A. Yes sir.

Q. Did you or not state that it destroyed the oysters. That it utterly destroyed them?

A. Yes sir. For a year or so it would kill them out.

Q. In a year or so would not there be a fresh supply of oysters on these same reefs and banks?

A. Yes sir. It is nearly two years ago that they killed
1491 them in the Back bay. We have now as many as we ever had. We have plenty of oysters here in Back bay in the deep water. It is only with 22 or 30 foot rakes that we can get them though.

Q. You have stated that prior to your going into the oyster business that you were running in the carrying trade between Biloxi and New Orleans. General freight?

A. Yes sir, and after I quit that I went into the oyster business.

Q. What was the character of the vessel in which you were doing this freight trade with New Orleans?

A. Something like 15 tons or something like that. The schooner Salena was her name. I don't know whether she is living now or not.

Q. What was her draft?

A. She drew six feet of water loaded deep.

Q. Was this loaded?
A. Yes, sir, she drew that water when she was loaded.
Q. Was she a round bottom or a flat bottom?
A. Yes, sir, she was a round bottom.
Q. Was she a center board?
A. Yes, sir, she was a center board.
Q. She was a center board in addition to being a round bottom?
A. You have seen the way that these schooners are made here.
Q. Almost a false keel?
A. No sir, a regular center board.
Q. Did you follow any channel in going to New Orleans?
A. Yes sir, from here going through Pass Marianne to St. Joseph and into Pontchartrain.
Q. Is that channel what is known as the deep water channel?
A. I understand that it is. Inside of here it is.
Q. I mean as you approach the mouth of East Pearl river. Is that known as the deep water channel through which vessels of great draft pass?
A. I don't know anything about that channel. I have crossed backwards and forwards through this channel.
Q. Have you not in your various trips to New Orleans met vessels under way drawing much more water than your schooner?
A. Not on that way, but I have met them in the new basin.
Q. Well now is it not a fact that these vessels could only pass through a deep water channel?
A. They could pass through where I did drawing eight or nine or ten feet of water.
Q. I am now speaking of the particular portion of the channel near the mouth of East Pearl river?
A. I have heard of that channel lately, about this channel running out that way, but I don't know where it is myself.
Q. Have you not seen large lumber vessels. Vessels going to East Pearl river to get lumber traverse that deep water channel?
A. No sir.
Q. Vessels engaged in foreign trade?
A. No sir, I never have met them. I have met schooners coming out of Pearl river and going to New Orleans, but I never met any big outside boats.
Q. Then so far as you know there is no deep water channel there?
A. Not that I know of. I have heard of it lately. Since these boundary laws I have heard it that there was a deep water channel there, but I never went into one crossing north and south.
Q. Now all of these various bayous that you have named and penetrate these marshes about which you have testified, is it or is it not a fact, that while there is a good deal of water at the
1492 mouth of these bayous, there are many shallow places where a vessel drawing two feet or two and a half or three feet of water could not pass in low water?
A. Yes sir, there are plenty of places that come out of the water.

There are some reefs that come out of the water, but then there are gullies that you can go through them.

Q. There are deep spots?

A. Yes sir.

Q. But as a rule these various bayous that you have mentioned are not traversible by vessels drawing more than two or two and a half feet of water in low tide?

A. Drawing five feet, I have gone through them in low tide. There are gullies that you can follow.

Q. Do you mean that you can go clear through from the north side of this territory to the south side on the Gulf in vessels drawing four or five feet of water?

A. I never have gone that far.

Q. Then you don't know?

A. No sir.

Q. You only know that in certain places you can go in a vessel drawing four or five feet of water?

A. I don't know about that far. I never went through that far sir.

Q. You have spoken of certain portions of this territory in dispute growing?

A. Yes sir, I have seen it.

Q. Well now is it not a fact that in many places, especially at the mouths of these bayous it has been cutting away?

A. There are little washes in the edges. We get heavy northers in the Three Mile bayou. In three years it would not wash more than a foot or a foot and a half, but right inside I have seen it growing up, more than twenty feet in a year.

Q. During that ten years' experience that you were engaged in this business has not there been a great change in the mouths of these different bayous?

A. I did not notice it so very much myself.

Q. Well now for instance what do you know by tradition or otherwise from what you have heard about the formation of Creole gap. Do you know how this gap was formed?

A. Not exactly. I have heard of some men cutting a gap there at the time the smack Creole was blown up on the shore in a storm. I have heard some fishermen talking about that.

Q. You have heard that prior to that that there was no gap there at all?

A. No sir, they cut one there to get her out.

Q. How wide is this gap now?

A. Well I could not say how wide it is. I have not been out there in three or four years.

Q. When was the last time that you were there?

A. It is something like three years since I was there last I think.

Q. You could not say how wide it is?

A. I could not say exactly. Maybe fifty feet wide and maybe 40. I could not say exactly.

Q. Is it not nearly a quarter of a mile wide?

A. No sir.

Q. Is it not wide enough for a schooner to tack going through there?

A. Yes sir.

Q. To go about?

1493 A. Yes sir.

Q. If it was only fifty feet a vessel could not go through there?

A. I have tacked through there a many a time with my little boat.

Q. Could you tack in a space of fifty feet?

A. Yes sir, and turn around just like a top in there. It is very seldom that you have to tack through there no matter how the wind blows.

Q. And you are going into a gap that is only fifty feet wide?

A. It may be more or less. I could not say exactly.

Q. Well let's take you at your word. About fifty feet. You would have to make a very short tack would not you?

A. Yes sir.

Q. Well now in that space of fifty feet would you get space enough to go about?

A. Yes sir, you fill the sails and luff about and go again.

Q. Would you acquire headway enough to go about or would not you be caught up by the what the sailors call irons?

A. I would take a pole and push her over then.

Q. You have never taken the trouble to post yourself in any way about this boundary line question have you. Either by reading or consulting documents?

A. No sir.

Q. You have simply testified to what you have heard?

A. Yes sir, from the old citizens.

Q. Now did you ever hear any question or discussion about this matter in any way until this present suit was started?

A. No sir, I never did.

Q. You never did?

A. No sir.

Q. Then what you have said about hearing the old people here talking about this boundary line was mere rumor and talk. They did not profess to know any thing about it from a legal point of view?

A. When I was with my father going to New Orleans on the boat. When we got that far he said to me "We are going in Louisiana territory."

Q. Is it not a fact that up to a very recent time there has been a very great diversity of opinion amongst the fishermen and the people as to exactly where the line was?

A. Yes sir, I have heard some talk of it. The reason I heard of that, some Cicilians and such people as that were talking about it. I

have heard them talk about the Louisiana lines and such as that. I told them that I did not know where it was only from what I had heard. I used to run to New Orleans with lumber and charcoal and wood.

Redirect examination.

By Gen. McCLURG:

Q. You say that your father was 75 years old when he died?
A. Yes sir.
Q. How long has he been dead?
A. I don't know sir exactly. Something like 12 or 15 years. I could not say certainly unless I was at home and could see some papers there.
Q. If he was living now he would be some where in the neighborhood of ninety years old?
1494 A. Yes sir, he would.
Q. And he was born and raised on Biloxi bay?
A. Yes sir.
Q. And your grand father came from Canada there?
A. Yes sir, he did.
Q. Judge Zacharie asked you about fishing oysters in Grand marsh after these canneries started. Do you mean to say that the people of Mississippi never fished there before the canneries started?
A. Oh yes sir, I think they did, some of them, I did not.
Q. You did not?
A. No sir.
Q. The establishment of the canneries along the coast shore created a greater demand for oysters?
A. Yes sir.
Q. And a great many more people engaged in the oyster business?
A. Yes sir.
Q. And there were a great many more boats of different kinds?
A. Yes sir, of different kinds.

EUGENE TIBLIER, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Mr. McCLURG:

Q. How old are you?
A. 63.
Q. Where do you live?
A. In Jackson county.
Q. How far from Biloxi bay?
A. About two miles, right on the edge of Biloxi bay on the north part.
Q. How long have you lived there?
A. I was raised there in the State of Mississippi, in Jackson county and on this coast.

Q. Is your father living or dead?
A. He is dead.
Q. How long has he been dead?
A. Twenty years.
Q. How old was he when he died?
A. 72 years.
Q. How long did he live there before he died?
A. Well he lived in New Orleans a part of the time and then in Alabama and all around, and in Mississippi. My father was a turner by trade.
Q. A worker in wood?
A. Yes sir, a turner in wood and copper and so on.
Q. He was a Frenchman?
A. Yes sir.
Q. What is your occupation now?
A. Well farming. A little farming and raising vegetables.
Q. Are you familiar with the waters between the bay of Biloxi and Pearl river?
A. Yes sir.
Q. How long have you known these waters?
A. Well since I was ten years old. I used to run aboard of a little schooner when I was ten years old.
Q. Where did you run on this schooner?
1495 A. I used to run on Mr. Fountain's schooner when I was ten years old. When I was ten years old was my first trip to New Orleans.
Q. What was this schooner doing?
A. Carrying wood. Lightwood.
Q. Did you ever engage in the oyster business?
A. Yes sir.
Q. When?
A. Well since 1867.
Q. What was your business while you were engaged in the oyster business. Fishing them?
A. Yes sir, fishing them. I was fishing at Back bay at first and around Biloxi, and carrying them some times to New Orleans. I made a couple of trips to New Orleans, and then again I would fish in Grand marsh, and carry them from Grand marsh around the coast here such as to Bay St. Louis and Pass Christian and Biloxi.
Q. What part of the marsh did you fish in?
A. Well the first part of Grand marsh that I went in was Grand pass it is called.
Q. Grand pass?
A. Yes sir.
Q. What other places if any?
A. Well I went down as far as Jack Williams?
Q. You went from Grand pass into Jack Williams?
A. Yes sir, and then into what they call Bayou Grecque.
Q. How far down did you ever fish?

A. Well as far as Martin island and Cat Fish pass it is called.
Q. Did you ever go as far as Three Mile bayou?
A. Yes sir.
Q. Did you ever go through Three Mile bayou?
A. I went as far as Cat Fish pass.
Q. In what kind of craft did you go there?
A. It was a light draft boat drawing a foot and a half of water light.
Q. How much would she draw loaded?
A. Three and a half.
Q. Could you go through Three Mile bayou loaded?
A. Yes sir.
Q. When did you first go through Three Mile bayou loaded?
A. About 18 years or more ago.
Q. When you were fishing in Grand pass and Cat Fish bay and at Martin island in what State were you fishing?
A. Well I thought I was in the State of Mississippi all of the time.
Q. Was there ever any interference with you by any body?
A. No sir.
Q. Why did you think you were in the State of Mississippi Captain?
A. Because the old people in running from here to New Orleans, some times in talking on board the vessel backwards and forwards would say well this is Pearl river, and this is the dividing line between Louisiana and Mississippi. It runs due south 18 miles from Pearl river.
Q. How long had you been here before?
A. I suppose 15 years backwards and forwards on the schooner.
Q. You mean 15 years ago or that you were 15 years old?
A. I was 15 years old. That is what I meant to say I was getting a small salary then.
Q. These people would talk to you about it, and the boatmen understood that the Mississippi line run 18 miles due south from the mouth of Pearl river?
1496 A. Yes sir, that is the way I got it. I was on the schooner with old man Fountain. I was an orphan and I started out at three dollars a month. That was a right small salary was it not.

Cross-examination.

By Col. ZACHARIE:

Q. You stated that you first come into these waters on schooners carrying light wood?
A. Yes sir.
Q. From Biloxi to New Orleans?
A. Yes sir.
Q. When did you first visit what you call the Grand marsh?

A. In 1867.

Q. What was this marsh known as then and now amongst the people generally. Were not they called the Louisiana marshes?

A. No sir, not in those times. I always heard the people say Grand marsh. They would say "I am going to Grand marsh, or I am going to the marsh."

Q. Is it not a fact that amongst you old creoles here that you called it Grand marsh, but is it not a fact that the large majority of the fishermen, and the American boatmen called it the Louisiana marsh?

A. No sir, not in my time when I was there.

Q. You continued in this oyster business from 1867 how long?

A. I stopped ten years ago.

Q. Ten years ago?

A. Yes sir, but if you please my children went on the vessel. I was an old fellow to go on the water then.

Q. How far south did you fish on these trips. Did you fish as far south as California bay?

A. No sir I did not.

Q. American bay?

A. No sir.

Q. Quarantine bay?

A. No sir.

Q. You did fish as far south as Martins island?

A. Yes sir.

Q. And you say that you considered that in together with the adjacent territory to be in Mississippi?

A. Yes sir.

Q. And that you simply derived that impression from what you heard certain old people say?

A. Yes sir.

Q. That Mississippi extended 18 miles south from the mouth of Pearl river?

A. Yes sir.

Q. When you first went there to this disputed territory in 1867 is it not a fact that there was a large abundance of oysters in the neighborhood of Biloxi and around this coast here?

A. Yes sir, there were oysters all over this coast not only in Back bay, but Pascagoula and Deer island and Pass Christian.

Q. Well what was the habit of the oyster fishermen at that time and for several years afterwards. Did they fish these oysters during the spawning season. In the summer time?

1497 A. Well very few.

Q. Is not it a fact that all of these boarding houses and hotels, and oyster stands etc., were abundantly supplied with fresh oysters all through the summer?

A. Yes sir.

Q. Then there was no difficulty in getting plenty of oysters here during the summer as well as during the winter?

A. Well what they did get through the summer here it was j to furnish the families, and it did not amount to any thing: had to bring good oysters and culled oysters. If you were bring oysters here that were not culled they would not rece them, and they were culled out on the reefs and the shells w thrown back.

Q. Is not it a fact that it is only recently that the State of Mis sippi has adopted any oyster legislation to protect her oysters?

A. I don't believe they did then, because it was not necess then.

Q. Is it not a fact that when these oyster smacks got a load oysters and had a fair wind to get to their destination that th would hoist sail and would not stop to cull, but would cull on way, and even wait until they got to land before they commen culling. Was not that the case in many instances?

A. That was the case sir with the New Orleans luggers. I ha seen a New Orleans boat fish on Isle à Pitre reefs and north p of Cat island and over to Pass Marianne and started to New leans with a heavy load of oysters on board and cull as th went.

Q. Was not this common among the Mississippi fishermen well as the Louisiana fishermen in order to take advantage of wind home?

A. Yes sir, some times, yes sir.

Q. Now this fishing out of season, and this not culling, did that have a very bad effect in the way of destroying your Mis sippi fisheries in this neighborhood?

A. Well in the summer time it did not hurt because there w hardly any oysters caught to hurt. Those little reefs out th would furnish this coast.

Q. But would not they go all along this coast at Pass Christi and all along here at all of these places and also to the east of h and do this same thing?

A. I know of nothing to hurt, no sir.

Q. Now is it not a fact that these canneries were established h in the 80 '2?

A. I believe they were some where around there sir.

Q. Now did not this create a much greater and larger demand f oysters than there was before that time?

A. Yes sir, the business was that much larger, and they ha to get more labor and more boats to furnish the factories.

Q. Well now prior to the establishment of these canneries the were very few of the Mississippi fishermen that went over to Gra marsh as you call it to fish oysters?

A. Well there were a good many boats running there.

Q. I mean compared to the number of vessels that go the now?

A. I can not hear you very well. You will have to talk loud to me.

Q. I mean this. Did not this falling off of your home fisheries about here and the great demand created by these canneries lead to a much larger number of the fishermen going to this Grand marsh?

1498 A. Yes sir, of course.

Q. Well now did you ever hear of any discussion or dispute as to where the boundary line was between Louisiana and Mississippi?

A. Yes sir, I have heard that. What Louisiana claimed. That Louisiana claimed this marsh. They said that she claimed it.

Q. Now was not there a great diversity of opinion among these fishermen on this subject where ever you heard it talked about?

A. As far as I could see and hear here they were all surprised that Louisiana was claiming this marsh here, and keeping us from going in there where we had been making our living.

Q. Did you or did you not know that prior to the passage of the Louisiana act of 1886, that the Mississippi fishermen had as much right under the Louisiana law to fish in this disputed territory as the Louisiana fishermen. Do you know that to be a fact?

A. No sir, I do not.

Q. You did not know that the act of 1886 was the first act prohibiting non residents of Louisiana to fish in Louisiana waters. I merely ask for information to see whether you knew that fact?

A. What I know is when Louisiana passed these laws prohibiting Mississippians from going into the Grand marsh.

Q. Before that there was no law that prohibited the Mississippian from going there?

A. No sir, there was no law of that sort.

Q. Therefore your idea that this territory was embraced in the lines of Mississippi was largely based upon the fact that prior to 1886 Louisiana allowed Mississippi fishermen to fish in these waters without molesting or interfering with them?

A. That I don't know. I never followed that. I have very little learning and I have never read much.

Q. Did you ever fish down as far as Drum bay?

A. No sir, I did not.

Q. Did you consider Martin island and those fisheries adjacent to Martins island as a part of Mississippi?

A. Yes sir from the line of Pearl river. The 18 mile line.

Q. Now when you were in the carrying trade and freight trade between this coast and New Orleans carrying lightwood and other things of that sort, what was the draft of the vessel that you were aboard of?

A. Well when I was a boy ten years old I was on board of the schooner Julian. She would draw six feet of water loaded.

Q. Well now what channel did you persue or follow in going to New Orleans?

A. Well we went through Pass Marianne channel.

Q. You went through the Pass Marianne channel?

A. Yes sir.

Q. Do you know Grand island and Grassy island and Round island and St. Joseph and those islands?

A. Yes sir.

Q. Where did you pass. To the northward or the southward of these islands?

A. North of St. Joseph island and north of Grassy island.

Q. How close in following this channel as you approached the east mouth of Pearl river did you go to the Mississippi shore, whether the main land or marshes of Mississippi. How close did you go?

A. We passed about two miles I suppose from the land of Mississippi out, and struck the Rigolets.

Q. Now is that what is known as the deep water channel for vessels of some considerable depth and build?

1499 A. Well there is a channel that we cross from Cat island going to Grand marsh. There is a channel there but I never followed the channel.

Q. I am now speaking of a channel as you approach the mouth of East Pearl river, as you have said within two miles of the Mississippi shore. Was this channel known as the deep water channel?

A. The deep water channel that I know of is Pass Marianne.

Q. The same channel that you have spoken of?

A. Yes sir.

Q. Now going eastward from this channel. When you pass the square handkerchief. Do you know where that is?

A. Yes sir, I know where the square handkerchief is.

Q. That channel forks, one going east and the other going southeast?

A. One goes east and there is another channel that runs north east.

Q. Or southeast?

A. There are three branches or channels. There is north east. This Pass Christian channel passes right in shore there.

Q. Then there is another one going due east towards these places on this coast is not there, running towards Mobile?

A. There is a channel running by Pass Christian, and another channel that I never went through that comes from St. Joseph, and through by Isle à Pitre and Cat island.

Q. The channel that branches comes down between Isle à Pitre and Cat island. That comes down southeast does not it?

A. Yes sir, south east from St. Joseph like that.

Q. Now south of these islands that you have spoken of the water is quite shallow is not it. It is not passable for large vessels is it?

A. In the channel or marsh?

Q. No, I am speaking now of the waters lying south of these islands, Grassy island and Round island and St. Joseph island. The water there is shallow is not it and does not admit of vessels of large draft going in there?

You can draw from six and a half feet of water to seven feet.
is according to how you stand out in Lake Borgne. If you
l further out at Grassy island you find a little more water.
How long since you were there in this territory at these
ds?
1867.
You have not been there since that?
Yes sir, I have been there since.
How long since you were there the last time?
About ten years ago. That is before I quit running on the
r.
Do you know what changes if any have taken place in St.
ph island?
Well St. Joseph is a little round island. It was washed down
he heavy blow and current.
Do you know an island that is called Round island?
Well I don't know. I am not acquainted with that island.
You have not been there in ten years you say?
No sir.
Well then you would not know any thing about the recent
changes?
A. No sir.
Q. If there were plenty of oysters here in this neighbor-
l of Biloxi and to the eastward and to the westward, none of
e Mississippi fishermen would go as far as Grand marsh to get
ers would they. They would go and get oysters near at hand?
I suppose they would if they could get them plentifully. They
et them plentifully, but some times if you please by going to
nd marsh I will tell you the difference there is. When you get
Grand marsh you are in harbor, especially with small boats.
can work all of the time there. There is Pass Christian and
à Pitre and St. Joseph. There are plenty of oysters. By going
these marshes you are in the harbor and can work better.
Is it not true that they can get a load of oysters there more
kly?
Yes sir.
Then they go there because the oysters have gotten scarse about
That is on account of the demand of these canneries?
Well I don't know sir. My boys tell me there are plenty of
ers.
You don't know that of your own knowledge?
No sir, I have not been out there in 16 years.

JOHN GOODIER, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Mr. MCCLURG:

Q. How old are you?
A. 45 the 18th of this month.
Q. Where do you reside?
A. In Biloxi.
Q. How long have you resided in Biloxi?
A. About 35 years.
Q. What is your occupation?
A. Oysterman. Boatman.
Q. How long have you been in that business?
A. Well since 1876.
Q. Are you familiar with the water between Biloxi and Pearl river?
A. Yes sir.
Q. And with what we know as the Grand marsh?
A. Yes sir.
Q. Are you familiar with Isle à Pitre and Grand pass?
A. Yes sir.
Q. And Johnsons bay?
A. Yes sir.
Q. And Three Mile bayou?
A. Yes sir.
Q. And Nine Mile bayou?
A. Yes sir.
Q. And Malheureux point?
A. Yes sir.
Q. How long have you known these places?
A. I first started it there in the year 1876.

Q. How far down into Grand marsh have you been?

1501 A. I first started fishing in American bay and California bay in 1876. That is when I first started.

Q. Were you ever in Drum bay?
A. Yes sir.
Q. Like Oak bay?
A. Yes sir.
Q. At Martins island?
A. Yes sir.
Q. Southwest pass?
A. Yes sir.
Q. Indian Mound bay?
A. Yes sir.
Q. Treasure bay and False Mouth bay?
A. Yes sir, you know I am not familiar with all of these names but there is not a place in there that I have not been in. But there are lots of these names that they use now that we did not use them at

l. What you call Southwest pass in my days we called it Crazy
ss. We called it Posa Loca, and that meant Crazy pass in Italian.
Q. How did you go through this Grand marsh in 1876?
A. I was on a sloop.
Q. How much water did she draw?
A. Four and a half and five feet when we were loaded. We used
load to about four and a half feet.
Q. State please sir what part of Grand marsh you could go through
h this boat?
A. Well we fished in California bay and American bay and used
go over on the inside of Mussell bayou, down the Nine Mile bayou.
as running to New Orleans at that time.
Q. You would go from California bay to this Grand marsh at
e Mile bayou?
. Yes sir.
. Drawing four and a half feet?
. We used to load on the voyage about four feet. Sometime a
e more and sometimes a little less.
. How long have you been running through this marsh. Since
?
. I have been running pretty steady. It has been 12 or 13 years
I have not been through that portion of the marsh, but the other
Drum bay and Martin island. I am through there every year.
is my business.
. You have been through Three Mile bayou, and Johnsons
a?
Yes sir.
And Turkey bayou?
Yes sir, I have been to the mouth of Turkey bayou here lately.
me 10 or 12 years that I have not been inside of it.
Did you ever go down through Turkey bayou?
Yes sir.
What sort of a boat did you have?
Well the boat, when I was running through there then, she
draw about two and a half or three feet of water loaded.
You have been through Grand pass I suppose?
es sir, I have been through there, but not lately.
Were you taking oysters in there?
es sir, here of late I have not. I have been running on the
t. Ten or twelve years back I was running oysters.
what State is Grand marsh. What State is that in. Is it
siana or Mississippi?
hat I could not say.
Q. Do you know where the lines of Mississippi are?
A. No sir.
Q. Have you ever been troubled by any body down there
fered with?
sir.

Q. Have you observed any difference in the general conformation of these places of which you have spoken in the Grand marsh?

A. No sir, you find the same depth of water there now. The same trouble to get through there that there was when I first went there.

Q. Are there any material changes in the bayous. Nine Mile and Three Mile and Turkey bayous and Grand pass?

A. I found the mouth of Three Mile bayou washed away a little and also Grand pass.

Q. Can you say as to whether these islands or this marsh is any lower or higher than it was in 1876?

A. No sir, there is no difference. Not on the inside. There is no material difference.

Q. Is there any industrial life in there of any kind such as farming and gardening and stock raising. Any body living in there?

A. There is some way on the inside towards the woods but on the outside where we fish oysters there is nobody living there to amount to any thing. Down on California bay there are some camps down there, put there by these people in the oyster business.

Q. What kind of camps do they live in?

A. Some thing on the order of these bath houses. They are built up on high posts.

Q. Occupied by the fishermen?

A. Yes sir, just the oystermen.

Q. How much draft. A boat drawing how much water can go through Nine Mile bayou down as far as Treasure bay?

A. Well I can go down there drawing four and a half feet of water.

Q. Has that been its condition ever since you have known it?

A. Yes sir, it is about the same thing.

Q. Can you say the same thing as to Three Mile bayou?

A. Yes sir, the trouble in going there in low tide — that you can not get the water, but on an average tide it is about what you want to go through there with.

Q. And the same is true of Turkey bayou and Grand pass?

A. Yes sir.

Q. Grand pass is larger?

A. Yes sir, there is more water in Grand pass.

Q. How wide is Grand pass?

A. Well the deep water is about 100 yards wide on an average.

Q. How wide is it from bank to bank?

A. Well I suppose a half a mile in some places.

Q. How far is it if you know from the south west side of Cat island to the north east point of Isle à Pitre?

A. I would judge about four miles across. Between three and four miles as near as I can state.

Q. How far is it do you think from the northern shore of Cat island to Pass Christian?

A. I don't know. About nine miles.

Q. What is your idea about the distance Captain from Gulfview
e Waveland and along there to Grand marsh?
A. I would think about 12 miles.
Q. How far is it do you think from St. Joseph to Three Mile
ayou?
A. Between 12 and 15 miles I would say.
563 Q. How far is it from Three Mile bayou down to South-
west pass?
A. It is about eight or ten miles.
Q. What do you think that the distance is from the northern
outh of Nine Mile bayou to the southern part of Treasure bay?
A. It is about six or seven miles.
Q. Now in travelling from Pearl river to Cat island. Do you
ow what channel in there is deeper than the other part of the
und?
A. No sir.
Q. You say that you don't know where the boundary line is be-
en these two States?
A. No sir.
Q. Have you ever heard it discussed. Mentioned?
A. No sir, only about five years ago here they had the oyster com-
sioners here. They came out there one time and I was fishing on
chooner at Sun Down island, and they said that we would have
ssissippi, and I did pay the license and was fishing at Brush
nd at the southward of Door point.
. You paid the license to what State?
. To the State of Mississippi.
. To whom did you pay it?
. I paid the license to Mr. Howes at Mississippi City. I went
e and got a license.
. That is for the right to fish about British island and Door
t?
Yes sir.
And at what other points did you fish under this license?
I was fishing in Drum bay, and what they call Cranetown
Under this license that you got for these bayous and passes?
Yes sir, we have made use of these passes. It would depend
how the year was. We would go through these passes down
Where would be your objective point down there?
Drum bay.
And when you left there where would you be going?
To Biloxi.
Could you say whether other fishermen had licenses from Mis-
pi as well as yourself?
Yes sir.
To fish in there?

A. Yes sir, a good many of them.

Q. About how many of them. Do you recall?

A. I could not tell you. Some dozen or more I suppose. I never paid any attention. I know that I was delivering the oysters to Back Bay factory to Mr. Young at that time. He was the man that saw the commission and saw about these things. He came out there and said "You will have to get a license." I says "Can you say whether I am fishing in Louisiana or Mississippi and he said Yes, you are fishing in Mississippi, and he showed me the charts and I went and got the license.

Q. Did he tell you how far out the lines of Mississippi extended?

A. No sir, he told me that I was fishing in Mississippi.

Q. Do you think you were within 18 miles of the Mississippi shore?

A. Yes sir, I could not tell you how far it was exactly. The same day that he served notice on me he served notice on two schooners running to New Orleans. One was the Mary, and I don't know the name of the other one, and they told them that they would have to leave those waters.

Q. That was about five years ago?

1504 A. No sir, it is longer than five years ago. That was in 1893. When he first boarded me it was in the winter of 1892 and in 1893 he came to me again out at Brush island and I was on a different schooner then. I was on the Queen of the Fleet.

Q. Who was this?

A. Placeda Lozana I think is his name.

Q. Have you any of these licenses that you got then?

A. No sir, the license I got at that time was lost on the schooner in the 1893 storm.

Q. Your schooner was lost in the 1893 storm?

A. Yes sir.

Q. And the license went down with her?

A. Yes sir. The ones that we had on the other boat I don't know what went with it. We generally burn those things up.

Q. How much water did this other boat draw?

A. Four and a half feet and this other schooner drew five feet. Her name was the Santa Marie.

Q. Did you use her in going in these places in the Grand marsh that you have been talking about?

A. Yes sir.

Cross-examination.

By Col. ZACHARIE:

Q. Where do you live?

A. Biloxi.

Q. How long have you lived here?

A. About thirty five years.

Q. You say that you first visited this territory in 1876?

. Yes sir.
. That is the first time that you commenced being engaged in oyster business?
. Yes sir.
. You have stated that you fished as low down as American bay California bay and Crazy pass and Martin island?
. Yes sir.
. Did you fish as low down as Quarantine bay?
. I have been in Quarantine bay but I never fished any oysters re. I have been through the bay.
. What is your business now?
. Oyster fishing, sir. Bedding.
. I understood you to say that you were at present engaged in e thing else?
. In the fall of the year I run the ice boat to go out and buy imp for the factories, and then in the winter time I am in the ter business.
. Then you are regularly employed off and on by these canies here?
. Yes sir.
. When was the last time you visited this disputed territory?
. I was out there last November. Up until the first of Decem-
. You have stated certain distances in your testimony in chief he counsel for Mississippi. Do you pretend to any accuracy in se distances or is it simply an off hand estimate?
. Just an off hand estimate yes sir.
. You have never measured these distances either on the map or on the water?
5 A. No sir, I never did.
Q. What are these marshes about which you have been ifying generally called by the fishermen. What name do they r?
. Grand marsh is the principal name used.
. Do not a great many and perhaps a majority of the fisherm call it the Louisiana marsh?
. Some of them call it Louisiana marsh, but Grand marsh is t is generally used.
. Now you have spoken about the depth of the water in Three e bayou and Nine Mile bayou and others. Have you ever passed ough these bayous from the north to the south all of the way ough?
. Yes sir.
. You say that the depth of the water is about the same in se bayous. About four or four and a half feet?
. We were speaking about going through these places. We not figure on the bayou. We figured on the mud flats on the side. The bayou is deep enough but the trouble was in keeping of the mud flats.

Q. Then you met occasionally mud flats?
A. Yes sir.
Q. In low water what is the general depth of these mud flats?
A. We would just heave these vessels with a foot and a half or two feet of water.
Q. Under those circumstances it would not be possible for a vessel drawing more than a foot or a foot and a half to pass through there?
A. To make a regular thing of it. Whenever we were loaded down we would have to wait for the tides to get through.
Q. You say that the Grand pass now is about a half a mile wide?
A. Yes sir.
Q. How wide was it when you first entered it?
A. It was about the same thing. I don't see any difference that I can notice.
Q. And you say that now it is about four miles down here?
A. Yes sir, from Cat island to Isle à Pitre.
Q. And you say that this pass has not grown any wider since you have known it?
A. No sir, not that I can see.
Q. How is it in regard to the mouths of these three bayous. Have they enlarged?
A. On the outer surface some of them have, maybe a few feet, but on the interior I don't see any difference in them on the inside.
Q. Is it not a matter of fact that a great many changes have taken place on the interior owing to the storms and so on during your knowledge, or are you really acquainted with the interior on this point?
A. Yes sir, I have been there as I told you since 1876. I have been running through there steady until 12 years ago. I don't see any difference in it today and the first day that I went there. That is on the interior.
Q. When was it that these Mississippi authorities first demanded a license from you?
A. That was in 1892 as near as I can recollect. In 1892.
Q. You mentioned about having lost a schooner in the 1893 storm?
A. No sir, the schooner was lost, but I did not have her at the time she was lost.
Q. About where was this schooner lost. Do you remember what point?
A. She was anchored outside of Grand pass.
1506 Q. Do you know the islands. Grassy island and Grand island and St. Joseph and Marianne island, and that group of islands lying between this disputed territory and the shore of Mississippi?
A. Yes sir.

Q. Do you know of any changes and if so what changes have taken place since you have known them?

A. No sir, I have not seen any changes there at all.

Q. Do you know Round island?

A. Yes sir.

Q. Is Round island still in existence there?

A. There used to be some grass on the top of it but the grass is washed away. The island is there yet.

Q. Is it not a fact that in high tide it is entirely covered?

A. It is covered in high tide.

Q. How about St. Joseph island?

A. The old St. Joseph island is washed away.

Q. Are there any other changes in this group of islands?

A. None that I can see. What they called Grand island is what we used to call Half Moon. It is about the same that I have always seen it and Grassy island is also.

Q. Prior to 1876 were there any men or oyster fishermen frequenting this Louisiana or Grand marsh?

A. I could not say because I was too young then to pay any attention to it.

Q. You don't know anything about any claim on one side of the other in regard to this boundary except what Mr. Young told you in taking out the license?

A. Yes sir.

Q. Do you know what is called the deep water channel between these marshes and the main land. The marsh land and the Mississippi north shore?

A. Well we call it Cat Island channel. Some of them call it south channel and some call it the deep water channel, but that is all I know about it.

Q. Starting from the mouth of East Pearl river, where does this deep water channel run?

A. The deep water comes in at Goose point.

Q. Let's take it in the reverse order coming out of the East Pearl river?

A. There is no channel coming out of there. It is about all one depth. The deep water starts in about south of Pass Marianne light.

Q. Is it not a fact that just east of the mouth of East Pearl river there is a deep water channel running close to the shore where large vessels go?

A. There is about an average of nine feet of water.

Q. Is that north of Half Moon island and these other islands?

A. Yes, sir, it is north of Half Moon island.

Q. Do you mean to say that south of these islands there is as much deep water as there is north of it?

A. No sir.

Q. Is it not a fact that the channel that runs close to the Missis-

sippi shore is known as the deep water channel through which vessels of large draft pass?

A. No sir, I have never heard it called that.

Q. How deep is the deepest draft vessel that you have ever been on board of in passing through these waters?

A. Well six feet is about our average depth.

Q. Then you have never concerned yourself out there about this deep water channel?

1507 A. No sir.

Q. That channel which passes from the mouth of East Pearl river down to the eastward, it forks when you get nearly opposite to Cat island does not it?

A. Yes sir.

Q. And then it turns to the south east?

A. Yes sir.

Q. And it passes in between Isle à Pitre and Cat island?

A. Yes sir.

Q. And there is another fork of that channel that continues eastward down this coast?

A. Yes sir.

Q. After you got your license from Mr. Young did you fish as low down as Martins island?

A. Yes sir I went to Martin island one trip.

Q. Did you fish as low down as American bay?

A. No sir, as far as I went under this license was what they call Martin island that is to the southward of Crane Town pass.

Q. You considered that you had the right to fish there because Mr. Young had told you that the Mississippi boundary extended 18 miles from the Mississippi river?

A. Yes sir, he told us that it extended three leagues. Now I did not ask him how many miles that way but he pulled out the chart and showed us. I told him where I was fishing and he pulled out the chart and said you are in Mississippi waters.

Q. Did he measure this six leagues upon the chart?

A. No sir, he did not measure it. He just showed me.

Q. Did he tell you that you could fish as far south as Martin island?

A. No sir, but he told me that I was in Mississippi waters down there.

Q. You were at Martin island?

A. Yes sir, just to the north of Martin Island point.

Q. Now you have mentioned Brush island. Where is Brush island?

A. It is just to the south of Door point.

Q. What relative position has Door point and Martins island and Drum bay?

A. Well there is some distance between the points.

Q. I understand, but I mean by the points of the compass. What

relative position by the compass does Brush island occupy to Drum bay?

A. Well Drum bay is on the inside of the marsh and Brush island is on the outside. Brush island is about seven or eight miles north of Drum bay.

Q. You mentioned Sun Down island?

A. That is down here.

Q. Tell me if you can. Cat Island channel. That you have just spoken of. How does it bear according to the point of the compass to the Mississippi main land?

A. That channel does not run straight. It makes a turn at Cat island.

Q. I know that it does. But how does it bear relatively to the main land of Mississippi?

A. It bears south from it.

Q. Due south.

A. Yes sir.

Q. About what point on the Mississippi shore would it strike?

1508 A. It would not strike the Mississippi shore. That is it would not strike the main land at all. When it comes to Cat island it takes a south west direction.

Q. I understand it takes to the south west, but running north through to the Mississippi main land, where would it strike?

A. It strikes in the mouth of Pearl river.

Q. I am speaking of the Cat Island channel. The channel where it passes between Isle à Pitre and Cat island. Now that particular part of the channel. Where would it strike the Mississippi main land. That is the northern shore?

A. It would not strike any where. It runs to the west-ward after you get to Cat island.

Q. Suppose that you run northward?

A. You can not take the channel and go northward.

Q. I am not speaking of following the channel, but I am speaking of following the points of the compass. Now please follow me on this map. You are being shown map Exhibit "A" of Mississippi, now you see this line outlined on this map running between Cat island and this point here which is supposed to be Isle à Pitre?

A. Yes sir.

Q. Now running due north from there. Where would it strike?

A. It would strike to the east of Pass Christian.

Q. Do you know what county Pass Christian is in?

A. Harrison county.

Q. What is the dividing line between Harrison and Hancock counties. Do you know.

A. Some where down about the Bay St. Louis bridge. I don't know exactly where. I could not say.

Q. I believe that you stated you have no knowledge of the boundaries between Louisiana and Mississippi except what you derived from Mr. Young?

A. That is all yes sir.

Q. You have never at any time heard the matter discussed except since this suit was instituted?

A. That is all.

Q. You have stated that in navigating these passes and bayous in the interior of this disputed territory that you had about the same trouble in passing through all of them. What is the trouble that you allude to. Running up against these mud flats in low water?

A. Yes sir, it is about the same now that it was when I first went in there. I don't see any difference at all.

Redirect examination.

By Mr. McCLURG:

Q. You mentioned awhile ago that the oyster commissioner pointed out to you that you were in Mississippi waters and that he said that the line was three leagues south of the Mississippi shore. Did you mean to say three or six?

A. At the time I said three. I don't remember. I paid no attention to it at all. He pulled out the chart and showed me where the line was but I did not pay any attention to it. I says If that is the case I will go and get my license. I was kind of angry at that time. I says "Never mind showing me any charts or any thing like that, and I went to Mississippi city the next day and got the license from Mr. Hewes.

1509 Q. How much did the license cost you?

A. I don't remember that either.

Q. You paid whatever was demanded?

A. Yes sir, I paid whatever was demanded but I don't remember what that was.

Q. When was this?

A. It was in 1892. The following year I had the Queen of the Fleet, and Mr. Lazenda boarded me outside at the Sundown island.

RICHARD LANUS, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Mr. McCLURG:

Q. Where do you live?

A. In Biloxi.

Q. How old are you?

A. Sixty.

Q. How long have you lived in Biloxi?

A. About 57 years.

Q. What are you doing for a living now?

A. Right now I have a fishing craft.

Q. What has been your occupation during your live?

A. Boating.

Q. For how long?
A. Since about 1866.
Q. Right after the civil war?
A. Yes sir.
Q. Where have you been boating?
A. From here to New Orleans and out in the marsh.
Q. What sort of boating did you do?
A. Carrying lumber and charcoal and wood to New Orleans.
Q. Did you ever fish oysters?
A. Yes sir.
Q. Where?
A. At Grand marsh.
Q. When did you first fish oysters in the Grand marsh?
A. About 1879 or 1880.
Q. What places did you fish oysters in Grand marsh?
A. Now the names we had for it were Drum bay and Karako bay
d Bayou Greecue and Creole gap, and all around there. We never
go much further than Martin island.
Q. Did I understand you to say that you have fished in there since
first started?
A. Until about four years ago. I have not been in the marsh in
ut four years.
Q. When you were fishing in Grand marsh what State were you
. I always heard that it was the State of Mississippi as far down
went.
. Down as far as what they call Southwest pass?
. Yes sir.
Was there any license ever required of you for fishing in there?
One time there was, but I don't recollect. It is the latter part
I got a license one time. That is to fish in Mississippi.
Where did you get the license?
A. I got them from Mr. Hewes.
Q. At what place?
A. Mississippi City.
Where did you fish under this license?
I was fishing at Pass Christian.
Did you fish in Grand marsh while you had this license?
I fished one or two trips I guess. I don't remember now. It
he latter part of the season and I never went out more than one
after I got the license. Just about one trip after I got the
e.
What was the draft of your boat?
oaded she drew four feet and four inches of water.
In what part of the Grand marsh did you travel with this boat
?
came through Drum bay and through South pass, and
h Catfish pass and out through Three Mile bayou, four feet
ur inches of water.

Q. When did you first make this trip. About when?
A. Between 1893 and 1894. I bought a boat in 1893 and this was about the second year after I bought her.
Q. I forget when you stated that you first went in there?
A. 1879 or 1880.
Q. And the last time that you went in there was when?
A. It is about four years. I cannot recollect exactly.
Q. About four years ago?
A. Yes sir, I know that I lost my wife and I have not been out there since. It was about four years ago. I have got it at home, but it is about four years this coming August that I lost my wife.
Q. Now you say that you considered that part of the Grand marsh that you fished in Mississippi?
A. Yes sir, I always did.
Q. Why did you think yourself in Mississippi?
A. Well I was always told it. I heard it from other people. That is how I knew it. I did not know it only by hearsay.
Q. You never read any laws on it?
A. No sir.
Q. Were you ever as far west as Nine Mile bayou?
A. Yes sir, but I never did go through Nine Mile bayou. I have been as far west but I never went in it. I have passed both mouths of it.
Q. You have been out through Three Mile bayou?
A. Yes sir.
Q. When you made this trip how much water was your boat drawing?
A. She was drawing just about four feet of water.
Q. Do you know where Johnson bayou is?
A. Yes sir.
Q. Did you ever go there?
A. Yes sir, I went there with about three and a half feet.
Q. How about Turkey bayou?
A. I never went through it. I have been in it but I never went through it.
Q. Grand pass. Have you ever been through it?
A. Yes sir.
Q. How much water will Grand pass let a boat draw?
A. Five and a half feet of water at a pretty low tide. After I got into Grand pass I did not know what water they had in there 10 or 12 feet I guess. Outside you get five and a half or six feet of water at a pretty low tide.
Q. Did you ever fish around Sun Down island?
A. Yes sir.
1511 Q. Door point?
A. Yes sir.
Q. Brush island?
A. Yes sir.
Q. When you were fishing in this section what State were you in?

A. From what I always heard I was in the State of Mississippi.

Q. State whether or not you have noticed any material changes in these waters and islands in the Grand marsh since you first went there?

A. Very little if any at all.

Q. Very little?

A. Yes sir.

Cross-examination.

By Col. ZACHARIE:

Q. I understand you to say that you only visited this disputed territory in 1879 and 1880?

A. Yes sir.

Q. That is the first time that you ever visited that territory?

A. Yes sir.

Q. And you have fished as low down as Drum bay and Martins sland?

A. Yes sir.

Q. Have you ever fished below there as far as California bay?

A. No sir, I have freighted oysters from there but I never fished ny.

Q. Have you ever fished or freighted oysters from Quarantine ay?

A. No sir, I don't think so. I have been down in American bay ere I think, but these bays and passes are connected together so at I *know* know which is which?

Q. You quit about four years after the death of your wife?

A. Yes sir.

Q. You have called this marsh Grand marsh. Is it not a fact at generally amongst the boatmen it has been known as the Lou- ana marshes?

A. No sir, not until here of late, and now some of them call it e Louisiana marshes. I have always in my young days heard it led the Grand marsh.

Q. Well now as a matter of fact I have been told that 15 years in visiting this coast and asking where they got their oysters n they would state the Louisiana marshes. Do you swear posi- ely that you never heard these marshes spoken of as the Louisi- marshes until very recently?

. Well four or five years ago.

. Not longer than that?

. Not longer than that no sir. It was always known as the nd marsh.

. When did you first take out this license of which you spoke?

. I could not tell you now what year it was in.

How long was it before you quit. I understood you to say you only visited this marsh once or perhaps twice after taking your license. Am I correct in that?

A. I went there yes sir, a good many times.
1512 Q. I did not so understand you. Could not you g
about the time. We are not asking the time exactly?
A. The time that I got the license I think was either 1894 o
that I got the license.
Q. Now what you have stated about this boundary. You
nothing about it except the vague rumors and talk that you
heard from time to time?
A. That is all.
Q. You never have taken the trouble to look into the mat
all?
A. No sir.
Q. But from what you had heard you thought when you
fishing as low down as Martins island and American bay that
were still in Mississippi territory?
A. I never fished in American bay.
Q. Well you freighted oysters from there?
A. I was on a schooner that freighted oysters. I was not run
the oysters. I was one of the hands.
Q. You still thought that you were in Mississippi territory
you?
A. No sir, not when I was in American bay because I alw
heard that it was as far down as 18 miles, but when I fished oys
down as far as Martin island I thought that I was in Mississ
territory.
Q. Well now in regard to this boundary. You have heard v
ous expressions have not you from time to time amongst the l
men in regard to what was the proper boundary between Mississi
and Louisiana. You have heard a good deal of discussion fr
time to time about that have you not?
A. Not until the year before I quit running.
Q. That is within the last four years?
A. Yes sir.
Q. Now you have spoken about going there through these marsh
and bayous and so on, and you have given the depths which the
vessels drew. Have you ever passed from the north shore of t
marsh clear through to the south?
A. I have passed through Drum bay and Three Mile bayou is t
farthest that I have passed.
Q. Have you passed through any of the other bayous?
A. Grand pass and Three Mile bayou.
Q. Now can you give us an idea of what the average of thes
vessels in which you passed through. What was the greates
depth?
A. Four and a half feet. Four feet and four inches I mean.
Q. What has been the stage of the tide when you would pas
through. Would not it take a high tide to go through?
A. Yes sir, pretty much all of the time. Ordinary tide any way.
Q. Well at an extreme low tide what would be the average depth?

A. About two or two and a half feet. That is on these mud flats.

Q. In passing through with a vessel drawing four feet and four inches you would have to take your time and the stage of the tide to get through there would not you. Otherwise you would be stuck on the mud flats would not you?

A. Yes sir, if it was loaded.

Q. Did I understand you to say that she drew four feet and four inches when she was loaded?

A. Yes sir.

Q. Then if there was on these mud flats only about two feet you would have to take your stage of the tide to get there. Otherwise you would get stuck on the mud flats would not you?

1513 A. Yes sir, if you were to get on the mud flats yes sir, but I was not so awfully well acquainted with the marsh. I did not know the marsh like some of the boys. I never went through the marsh except through Drum bay and Three Mile bayou.

Q. Now you have stated that you have been engaged in the freight business between this coast and New Orleans?

A. Yes sir.

Q. Do you know what is called the deep water channel between the northern coast of this marsh and the main land of Mississippi. Do you know such a channel as the deep water channel?

A. That is what I have always heard the Cat Island channel. The one to the southward.

Q. How close to the Mississippi shore does that channel run when it approaches East Pearl river?

A. About a half a mile. It comes out by Grassy island. About a half a mile to the main land.

Q. It runs north of Grassy island and Half Moon and Round island and the other little islands there. St. Josephs. It runs north of that does not it?

A. Yes sir.

Q. Is that channel traversed by vessels drawing considerable depth?

A. Of course. They have to go the same way to get outside too.

Q. It would not be possible would it for vessels drawing six or seven or more feet to pass through these waters by any other channel?

A. No sir, I don't think it would.

Q. Do you know how far back the Mississippi fishermen commenced going to this Grand marsh or Louisiana marsh for oysters. When did they commence going there?

A. I could not tell you. I went in there about 1879 or 1880.

Q. Is it not a fact before the Civil war between the States and after the termination of the war there was a large quantity and abundance of oysters in the neighborhood of Biloxi and along this coast?

A. No sir, I don't think there were very many oysters around here.

Q. Were not there plenty of oysters in Back bay?

A. Yes sir, there were a few. Very few.

Q. Were there not oysters along Deer island. Were there not oysters running out to the channel coming into Biloxi?

A. No sir, I never heard tell of any.

Q. Were not there oyster reefs, natural reefs existing to the east and west of Biloxi and running to Pascagoula and beyond there?

A. Right at Pascagoula there were some.

Q. Well was not the home supply for this coast supplied from these reefs?

A. Well there was only a local business then.

Q. Well was not it the habit of the fishermen fishing these reefs, that they fished all during the summer for the local supply during the spawning season?

A. Well I don't recollect that part before the war.

Q. After the war I am speaking of. Were not all of the hotels and the families and the oyster saloons supplied with a daily supply of oysters during the summer and during the spawning season. The hotels and the families and the boarding houses and the oyster saloons all along this coast. Were not they supplied from these reefs?

A. Around Pass Christian and Pass Marianne?

Q. Yes sir, I am speaking of in this vicinity. Back bay and Deer island, and all along this coast from east to west?

1514 A. They got oysters on the outside there, on Pass Marianne in the summer time. What they supplied the hotels with.

Q. Don't you know as a matter of fact in the past when oysters were needed here for consumption in Biloxi that they just went out here in this bay fishing them up with the tongs?

A. There never were any oysters here. Between here and Pas Christian.

Q. Are there not oysters out here in front of the yacht house here and all along there?

A. There may have been but I don't recollect it. I never saw any body that did know that there were any there.

Q. Now is it not a matter of fact that during the time I have just mentioned that the fishermen were not particular where they culled the oysters, if they happened to be out in boats and the wind was fair to go to their homes that they would not stop and cull upon the reefs, but they would cull as they sailed along homeward, and in some instances culled them after they got on the land?

A. They culled them then better than they do now I think.

Q. Don't you know of instances in which they culled while they were sailing home?

A. No sir.

Q. The demand for oysters increased very much after the establishment of the canneries here along this coast did not it?

A. Yes sir.
Q. Now is it not a fact that it was only with the establishment of ese canneries that this large number of Mississippi oyster men sorted to these Louisiana marshes for oysters?
A. No sir.
Q. It is not so?
A. No sir.
Q. Do you suppose that at any time prior to the establishment of ese factories and canneries that you could see at one time 150 hing smacks in the neighborhood of Isle à Pitre, on that coast olging for oysters, or has not that been since the canneries were ened?
A. I have seen a great many yes sir, fishing in these reefs there.
Q. Before the establishment of the canneries?
A. Oh no sir.
Q. Then it is only since the canneries have been established that larger portion of these Mississippi oyster men have resorted to se marshes to get this great quantity of oysters to supply these neries. Is not that a fact.
A. I don't know whether they caught them all in the marsh. st of them caught them outside on Pass Christian and Pass Mari- e and around there.
Q. Did most of the oysters that they caught for the canneries e from off the coast of this very disputed territory. Lately s Christian reefs have not a large quantity of oysters?
A. Yes sir.
Q. Well why did all of these fishermen or nearly all of them go in these oyster reefs in the neighborhood of this disputed terri- Why is it if they can get them from Pass Christian and from reefs there, why should they go on a further distance over to coast of these marshes to get these oysters?
A. It must be better I guess. I never did go there to fish them.
Q. You never did go where?
A. I never run steam oysters.
Q. What do you mean by steam oysters?
A. Canning oysters.
Q. You never did go where?
A. To the disputed territory that you are talking about.
Q. Have not you just testified to it?
A. In the marshes. I thought that the disputed territory was out- f the marshes.
Q. No, I am speaking of these marshes. Grand marsh as you call l called by others Louisiana marsh. If they got a supply and icient amount of oysters from Pass Christian fisheries here why l these oystermen go over there to these marshes to get oysters?
A. I don't know sir.
Q. You could not say?
A. No sir.
Q. Is it not very natural and probable that if they could supply

themselves from the Pas. Christian reefs that they would not go over there to get oysters. What have you to say about that?

A. What is the question again.

Q. I say why would they go over there to get oysters if they could get them closer here?

A. I guess that they would not if they could get them here.

Q. Then does not that show that the supply of oysters from the Pass Christian reefs is entirely insufficient to supply the demand from the canneries?

A. I guess so.

Q. You have no knowledge as to where the boundary line is between Mississippi and Louisiana except what you have heard from time to time?

A. No sir, no more than I have heard the people say. That it was from the mouth of Pearl river running six leagues to the south from the main land. That is what I have heard the people say.

Q. Did you ever hear people say that under the act admitting Louisiana into the Union in 1812, five years prior to the admission of Mississippi that the State of Louisiana was granted all islands within three leagues or nine miles of her coast?

A. No sir, I never heard of that.

Q. You never heard of that?

A. No sir.

The commission here took a recess for the noon hour and reassembled with the same attorneys, and the commissioner present as this morning.

GEORGE BILLS, being duly sworn on behalf of Mississippi, as a witness, testified as follows:—

By Mr. McCLURG:

Q. How old are you?

A. 39.

Q. Where do you live?

A. In Biloxi.

Q. How long have you lived in Biloxi?

A. For thirty nine years.

Q. What is your present occupation?

A. Oysterman.

Q. How long have you been in the oyster business?

A. I suppose some where around 26 years.

1516 Q. Are you familiar with the waters between Biloxi and the mouth of Pearl river?

A. Yes sir.

Q. How long have you been familiar with those waters?

A. Well sir, about as near as I can tell you, between here and Pearl river for about 14 years.

Q. Are you familiar with what is called Grand marsh?
A. I am sir.
Q. How long have you known Grand marsh?
A. Well I suppose somewhere around 19 or 20 years.
Q. Do you know Cat Island?
A. Yes sir.
Q. Grand pass?
A. Yes sir.
Q. Turkey bayou?
A. Yes sir.
Q. Johnson bayou?
A. Yes sir.
Q. Three Mile bayou?
A. Yes sir.
Q. Nine Mile bayou?
A. Yes sir.
Q. Malheureux point?
A. I don't know anything about that place unless it has a different name.
Q. Petit pass. Do you know that?
A. Yes sir.
Q. As I understand it Malheureux point is south of Petit Pass island and Petit pass is between Petit Pass island and what is called by the Louisiana people Malheureux point?
A. Yes sir, I am familiar with that.
Q. And Malheureux point is nearly south of Pearl river?
A. Yes sir.
Q. So you know that country?
A. I know that coast yes sir.
Q. Well to the south of these places that I have just asked you about is what I understand the Mississippians call Grand marsh?
A. Yes sir, some claims Grand marsh and some Louisiana marsh and some the marshes. I don't know what they call it.
Q. It has been called by different names?
A. Yes sir.
Q. I wish you would tell me if you have ever fished oysters south of a point extending from the north east point of Isle à Pitre around to Nine Mile bayou. If you fished south of that line. South of that line is what we understand to be the Grand marsh or Louisiana marsh or the marshes. Have you been in there?
A. Yes sir, I have been all through there. Bayou Greecue and Jack Williams and Karako bay, and Bayou Boudreaux and Johnson bay. I have been all through there.
Q. For how long?
A. I have been going there off and on for 19 years I guess.
Q. Have you ever been down as far as Drum bay?
A. Yes sir, I have fished oysters in Drum bay.
Q. Have you ever been in the Lake of the Mound?
A. Yes sir, we call that Indian mound.

Q. Have you ever been in False Mouth bay. Sometimes called by some other name?

1517 A. If you will mention some other name I might know it.

Q. It is right to the south of Nine Mile bayou?

A. No sir, I have not been south of Nine Mile bayou. I have been east of south from Nine Mile bayou.

Q. Were you ever in Treasure bay?

A. Yes sir.

Q. Well you know where Pirate point is?

A. Yes sir.

Q. You know where Raccoon island is?

A. Yes sir.

Q. And Little Raccoon island?

A. Yes sir.

Q. And Crooked island?

A. Yes sir.

Q. Mud island?

A. Yes sir.

Q. Brush island?

A. Yes sir.

Q. Door point?

A. Yes sir.

Q. Bayou Greecue?

A. Yes sir.

Q. In what State are those places?

A. In Bayou Greecue I fished there last November or December 1903 I fished there some eight years ago and it seems to me that there is less water coming through the mouth of Bayou Greecue towards Grand pass than there was eight years ago.

Q. Well tell me in what State all of these places are. Whether they are in Mississippi or Louisiana?

A. I could not say sir I don't know whether they are in Louisiana or Mississippi.

Q. Were you ever disturbed by any body in either State in your fishing there in the last twenty years?

A. No sir, I never have been.

Q. You seem to have misunderstood my question by asking you the State. You started to tell me the state of the land between Bayou Greecue and Grand pass?

A. Yes sir.

Q. Tell me about that please sir?

A. Well sir about eight or nine years ago I used to fish on an oyster boat drawing three feet four inches with about 80 barrels.

Q. Where?

A. In Bayou Greecue.

Q. How did you get into Bayou Greecue?

A. From Grand pass. You have to go in that way and then into Bayou Greecue.

Q. That is about eight or nine years ago?

sir.
ur boat drew how much water?
out twenty inches I told you.
w much did she draw loaded?
out three feet eight inches loaded, but I could only put
nty barrels on her. That made her draw about 3 feet and
es.
ld you get from Bayou Greecue into Grand pass with
rrels of oysters and your boat drawing three feet and four

very well unless I waited for a full tide.
could go out in a full tide?
A. Yes sir.
Q. When did you see this bayou last?
A. Last December.
was it then?
l with my boat then she was drawing about two feet and
hes. We had to heave her out in the night time.
derstand you to mean by that that the passage between
ecue into Grand pass had been filling up?
ems that way to me sir.
at your best judgment about it?
sir.

Col. ZACHARIE:

t did you say you had to do with her?
re her out with a windlass.
t do you mean by heaving her out?
t we mean by heaving her out is that we run a pole out
le and heave her out with our windlass.

Mr. MCCLURG:

draw her out?
ir, drag her through the mud.
it as deep last November and December as it was eight
ars ago?
uld not seem that way to me no sir.
about the general contour of the balance of the marshes?
all seem alike to me.
have not seen any material change in any of them?
r, there is not but one place that I could see any change.
he mouth of Three Mile bayou. There used to be a kind
there at the mouth of Three Mile bayou and now it is

you ever paid any license for fishing in there?
ir.
Mr. Bills?
ast two winters.
hom did you pay the license?

A. To the Louisiana commission.
Q. How much did you pay them?
A. I paid them $7.50.
Q. For fishing where?
A. They claimed in the Louisiana marsh.
Q. Any where in Louisiana?
A. Yes sir.
Q. That is since this controversy arose that you paid the license?
A. Yes sir.
Q. Did you ever pay a license or licenses before that time?
A. No sir.
Q. I understand you to say that you have been fishing in this marsh for the last 19 or 20 years?
A. Yes sir, for the last 19 or 20 years off and on.
Q. You fished from Biloxi?
A. Yes sir.
Q. And the oysters that you took were brought to Biloxi?
A. Yes sir. Except the last two seasons.
Q. Have you ever paid to the State of Mississippi any license to fish?
A. No sir, I have never fished in Mississippi since this dispute has been going on.
1519 Q. You respected the agreement made between the two commissions did you not to fish west of Grand pass?
A. Well you see my oystering is supposed to be in the marshes altogether. I never fished in this sound at all. This is disputed ground.
Q. You never fished up in the sound?
A. No sir. I have been fishing in the marshes since this dispute has been going on.
Q. Do you know where the line is dividing Louisiana and Mississippi?
A. No sir, I do not.
Q. When you were fishing at Brush island and Door point. Did you ever fish down there?
A. Yes sir, right there at Brush island.
Q. Sundown bayou?
A. Yes sir. I don't know where that is.
Q. Right south of Grand pass?
A. I know where Sun Down island is.
Q. That is right southeast of Grand pass is it not?
A. It is about east southeast or something like that.
Q. What State were you fishing in when you were in there?
A. Well I was fishing there. I don't know whether it was Mississippi or not, but I was fishing there.
Q. Well tell me about any material change that you have noticed in there at any point except the mouth of Three Mile bayou?
A. That is all I know of sir.

Q. Have you noticed any subsidence or sinking in any of these slands out there in the last 18 or 20 years?

A. No sir, if there was I never noticed it. If there was any hange at all I could not see it.

Q. Are you acquainted with St. Joseph or Grassy island?

A. Yes sir.

Q. Has there been any change up there?

A. No sir, none that I could see. With the exception of the old t. Joseph light. There used to be a kind of a little spot there and has washed away.

Q. What was the character of the land that formed that island?

A. No more than marsh. That is all that I saw there.

Q. The same kind of soil that forms Isle à Pitre and the other lands down there in the swamp? In the marsh?

A. I could not say anything about that.

Q. You never examined that soil?

A. No sir, I never went ashore there.

Q. Now have you ever made any trips there about Drum bay or lifornia bay and through this marsh towards Three Mile bayou?

A. Yes sir, I have made a many a one.

Q. How did you travel?

A. Through Cat Fish pass into Indian Mound bay and Dutch ss and from Dutch pass to Pirate point, and from Pirate point to ccoon island, and from Raccoon island into Three Mile and Nine le. Just anyway we wanted was suitable for me to go through re.

Q. How long have you been making these trips?

A. I have been fishing around Drum bay for the last six or eight rs.

Q. You would come out through Three Mile bayou?

A. I would when I was running to Mississippi. To Biloxi.

Q. Could you go through Drum bay and Indian Mound bay down there through Three Mile bayou drawing three feet and eight inches of water?

A. Yes sir, unless it was a very low tide. A dead low tide.

Q. How much in Drum bay would it be in low tide?

A. You take a low tide there in Drum bay and in some places I 't suppose that it would be over two feet wide.

Q. At mean tide or average tide?

A. About three or three and a half feet or some where along re.

Q. Well now aside from making these trips on this particular that you have mentioned, up through the marsh, and coming of Three Mile bayou could you travel on other places through marsh?

A. Yes sir, I have travelled all through there with the same

Q. Drawing from three feet to three feet and eight inches?

A. Yes sir.

Q. And you had no trouble?
A. No sir.

Cross-examination.

By Col. ZACHARIE:

Q. Mr. Bills, could you state at what time you took out this license to fish oysters in Louisiana?
A. Yes sir, my first license was taken out in last October was a year ago.
Q. You say your first license. Have you taken out two licenses?
A. Yes sir, I have taken out two licenses.
Q. Why did you take both of these licenses out from Louisiana?
A. Well sir my last boat that I have been running is small and I did not think that I could make a living by fishing in the reefs oysters and therefore I thought that the marsh was better for me.
Q. Did not you take out a license from Louisiana because you considered that the marsh was Louisiana territory in which you proposed to fish?
A. No sir, not exactly. I took out a license to keep out of trouble. To keep from being arrested.
Q. You never made any application to the Mississippi authorities for a license did you?
A. No sir, I did not.
Q. Now is it not a matter of fact that as far as you can remember back that these marshes have been generally called amongst all of the fishermen Louisiana marshes?
A. Not all sir.
Q. Well I say generally?
A. Some of them call it the Louisiana marshes and some the ma-shes and some the Grand marsh.
Q. What do the majority of them call it?
A. Well the marshes is all that I could state on that.
Q. Suppose you were to go out here and ask these people that bring in oysters for the canneries, where did you get these oysters from, would not all of them answer the *the* Louisiana marshes?
A. He would not answer that way. He would say from the marshes.
Q. I am speaking about the generality of these people. Would they not answer Louisiana marshes?
1521 A. No doubt some of them say it yes sir.
Q. Now you speak about not having perceived any changes in 19 or 20 years that you have been in the oyster trade?
A. I have been in the marshes about 19 or 20 years. I have been in the oyster business. I have made my living with oysters about 26 years.
Q. You have been in the marsh for 19 years?
A. Yes sir, between 19 or 20 years.

Q. Have not you observed that the mouths of these passes have idened very much?
A. In deep water yes sir.
Q. Have they not all widened a great deal in extent?
A. No sir, they have not widened in the last 12 or 15 years. Not at I know of.
Q. Do you know Creole gap?
A. I do very well.
Q. Has that not widened?
A. Yes sir, it has.
Q. Has not Three Mile bayou widened?
A. Not that I know of sir.
Q. Has not Nine Mile bayou widened?
A. No sir, it don't seem so to me. You just asked me about reole gap widening. It is just Creole gap since I have known it.
Q. Has it not widened?
A. No sir, I told you that it did, but I cannot say that it has dened any at all, because it looks the same to me that it did 19 20 years ago.
Q. Do you know an island that formerly existed by the name of ound island, which lay between these coasts and the main land of ississippi?
A. Round island?
Q. It was between the coast line of these marshes and the main nd of Mississippi, Do you remember such an island?
A. I remember a little island between Petit pass and Grassy and. It is there yet.
Q. It is there yet?
A. Yes sir.
Q. Have any of these islands lying between this coast line of the arshes and the main land of Mississippi disappeared in the last y years?
A. Not that I know of sir.
Q. I believe you have stated that St. Joseph island has been shed away?
A. That is near to the main land. The old St. Joseph light at is way inside.
Q. Well that is to the north of the coast line of these marshes?
A. Yes sir.
Q. That is in the group of islands. There are several islands re. Three or four or five?
A. Yes sir.
Q. Have not a portion of Grassy island and Half Moon island n washed away?
A. Not that I have noticed.
Q. Have you noticed it carefully?
A. I never was ashore there. I have fished oysters there and ed all around it.
Q. There was how much water in Bayou Greecue?

A. That is just like I say. Eight or nine years ago I used to run a boat called the Castello, and she drew three feet and four
1522 inches with about 80 barrels of oysters, and I used to go out there with my boat. This boat that I have now only draws two feet and eleven inches. That is about as much as she will draw deep loaded, and often times this winter we had to use the windlass to draw her out.

Q. You had to take a rope and windlass and warp her out?

A. No sir, I rolled her out. Heaved her out.

Q. You were then dragging her through a mud flat were not you?

A. Yes sir.

Q. You never bothered your head about the boundary much did you?

A. No sir.

Q. Did you ever hear this boundary question discussed at all until this boundary suit came up?

A. No sir, I never did.

Q. You never heard any talk about any 18 mile limit?

A. No sir, I fished oysters out there and I did not notice anything like that. I was not notified in any shape or form.

Q. Did you ever go through any portion of this marsh from the north coast of it to the south. To the Gulf?

A. I went through it from the north as far as Kaliko bay.

Q. Where is that?

A. It is just about a half a mile on the inside of the marsh on the west side.

Q. You never went through the marsh to the south?

A. Yes sir, I have been through Nine Mile bayou, down about to the southwest I told you, and Karako bay, and Gardeners point. That extends out into the Gulf.

Q. What is the depth of this water going through there?

A. There are the flats that we call Little Bay flat and another called the Big Bay flat, and at times the water there is very shallow.

Q. What do you call shallow?

A. A foot to two and a half feet. They are never more than that.

Q. Well how much did this vessel draw that you were going through there with?

A. Two feet and ten inches.

Q. Well then how did you manage to go through these mud flats?

A. We heave through there. There is more mud there than there is water.

M. MARTINEZ, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Mr. McCLURG:

Q. How old are you?
A. About sixty years old.
Q. Where do you live?
A. I live in Biloxi.
Q. How long have you lived in Biloxi?
A. About eight years.
Q. Where did you live before you came here?
A. In St. Bernard parish.
Q. That is in the State of Louisiana?
A. Yes sir.
Q. How long have you lived there?
A. Since 1867.
Q. Where did you live before you went to St. Bernard parish Louisiana?
A. I come from Mobile. I stayed there about 15 days and went from there to New Orleans.
Q. And then you went over into St. Bernard?
A. Yes sir.
Q. What did you do for a living when you went over there in Bernard?
A. I was in the trapping business and the fishing business.
Q. Do you know where Terre Bœuf is?
A. Yes sir.
Q. I want to ask you Captain something about the country lying th of the east mouth of Bayou Terre Bœuf. Do you know that ntry well?
A. Very well. I stayed there about twenty five years. All the e I was down there.
Q. Out east of Terre Bœuf is California bay?
A. Yes sir, I know California bay.
Q. Now let's look to the north. Out through the marsh and the sissippi sound?
A. It is about 100 miles here and the old quarantine is about 40 es.
Q. Well about 1867 did you ever go in any of the bayous. Up in Nine Mile bayou or Three Mile bayou?
A. Yes sir, I come through there some times to kill alligators and ed both of them. I came in there about Bayou Loutre.
Q. How did you ever travel in that country down there about ou Bœuf in a boat up to Three Mile bayou and Nine Mile bayou? you ever go up there?
A. Yes sir.
Q. How deep did your boat run in the water?
A. Three to three and a half feet.

Q. Did you make it through there often in the boat. A good many times?

A. Yes sir.

Q. You have known that country ever since 1867?

A. Yes sir.

Q. Did you ever notice any changes in it?

A. No sir, there are no changes.

Q. When were you there the last time?

A. It has been about nine years.

Q. Now from 1867 up to nine years ago have you noticed any changes in the rise or fall of any of these islands or lands and if so tell us what it is?

A. I don't know. I have been twenty five years through there, and I saw every thing all the time just the same. Some times the sea washes a little bit by being heavy in eight or ten years.

Q. Washes away an island?

A. No sir, in four or five or ten years it would wash away about ten feet.

Q. Did you notice in this time some places that would grow larger and higher?

A. Yes sir.

Q. It was not sinking down any lower?

A. No sir.

Q. It was just washing a little around the edges?

A. That is all.

Q. No body ever arrested you or disturbed you when you were fishing around in this country?

A. No body did not worry me any.

Q. Do you know where Grand pass is?

1524 A. I have passed two or three times over there.

Q. At the east end of Isle à Pitre?

A. I pass there some times.

Q. When did you first go through Grand pass?

A. About one year ago.

Q. Is that the first time?

A. No sir, the second time. I went through there about two years ago.

Q. You know better down in the other part of the Terre Beuf country. You know that the best?

A. Yes sir, that is my country. Plaquemines parish and St. Bernard. I know that best.

Q. What place did you live in at St. Bernard?

A. On the Island Bayou Terre Beuf.

Q. How far from the shore, from the water?

A. You mean my house.

Q. Yes sir?

A. About ten feet.

Q. Then how far is it from there to the Gulf?

A. About Terre Beuf. They call it Lamouth too. Bayou

Lamouth is about 27 miles long, and it has 15 or 14 f[illegible] of water and in some places 20. In the mouth of a lake that they call Nigger lake there is about six or seven feet of water in high water, and in low water four or five, and the mouth in high water has seven feet and in low water four or five feet.

Q. Bayou Lamouthe runs north?

A. Yes sir, Bayou Lamouthe and Bayou Terre Beuf are the same bayou. The Frenchmen call it Bayou Terre Beuf and the Spanish call is Lamouthe. That is the difference.

Q. Have you been out Southwest pass?

A. I pass there some times.

Q. Greecue bayou?

A. No sir. I have been by there some times.

Q. Raccoon bay. Do you know where that is?

A. I pass by there some times.

Q. Well in going up through the marsh up Three Mile bayou ow did you go there?

A. I went through Lake Borgne.

Q. Were you ever at Brush island out east?

A. No sir.

Q. You don't know about that?

A. I don't know about that place.

Q. How many times do you suppose since 1867 have you gone ou down there about Bayou Terre Beuf up to the Mississippi und in your boat?

A. In the winter time I am going through there all the time for sh.

Q. Every winter?

A. Every week I would go through there. I fished in California ay even.

Q. Did you ever go through California bay up to Nine Mile ayou?

A. And Bayou Lamouthe.

Q. Did you ever come up through Three Mile bayou from wn there?

A. No sir, I came up Bayou Loutre.

Q. And you went in a boat that drew three and a half feet of ater?

A. Yes sir.

Q. And you had no trouble?

A. No sir.

Q. And you have noticed no difference there?

A. No sir.

Q. And the conformation of the land there now is just the me that it was in 1867?

A. Yes sir.

Cross-examination.

By Col. ZACHARIE:

Q. Do you mean to say sir that this territory in the marshes has not undergone any changes at all from these storms?

A. Over there, no sir, it never changes.

Q. Have not the mouths of these bayous widened?

A. Well, maybe a little more wide. Not much.

Q. How many years is it since you last visited this place?

A. 1867 is when I went over there.

Q. How long ago is it since the last time you went there?

A. Nine years.

Q. You don't know any thing about the condition of the ground there now?

A. No sir, not in the nine years.

Q. Did I understand you to say that you were catching oysters there, or that you were trapping and killing alligators?

A. In the winter time I fished over there for fish and in the summer oysters and took them to New Orleans.

Q. What did they call this territory. What kind of a marsh. Did they call it Louisiana marsh?

A. Louisiana marsh.

Q. Did you ever hear any talk of this marsh belonging to Mississippi in St. Bernard parish down there?

A. St. Bernard parish and Plaquemines parish all belong to Louisiana.

Q. And they were called the Louisiana marshes?

A. I don't know what they call them. They call them the marshes.

Q. Did not the fishermen call all of these places, Three Mile bayou and Nine Mile bayou and Creole gap and all of these places. Did not they call them Louisiana marshes?

A. I did not fish over there.

Q. I am asking you what the fishermen called the places over there. Did not they call them the Louisiana marshes?

A. They called it the Louisiana marsh here.

Q. Where they catch the oysters in that territory. Where you come out from the river in St. Bernard parish out to Isle à Pitre. Did not they call all of this Louisiana marshes?

A. I told you that I went to Isle à Pitre to fish.

Q. What did they call them?

A. Called it St. Bernard down there.

Q. Was this all considered a part of St. Bernard parish. All of these lagoons and places in there?

A. St. Bernard parish.

Q. You never heard it called any thing else did you?

A. No sir.

Q. Are not you mistaken. Is not Bayou Lamouthe the bayou that runs into Terre Bœuf?

A. Of course not. They are the same. One is a French name and the other is Spanish.

1526 Redirect examination.

By Mr. McCLURG:

Q. When you speak of the St. Bernard marshes you mean that marsh country along the Terre Beuf don't you?
A. Yes sir.
Q. All of these marshes between Bayou Terre Beuf and Lake Borgne and Nine Mile bayou. How about that?
A. No sir; I don't know anything about that.
Q. You don't know anything about that?
A. No, sir, I was talking about Point Chico and the country here.
Q. Did you ever hear this country north of Bayou Terre Beuf between there and the Mississippi sound up there called Grand Marsh?
A. Some times they call it Grand marsh.
Q. There is more water than land in there is there not?
A. They have not got too much water. Three or four or five feet.
Q. When you look at it here it looks like it is more water?
A. Some places they have.
Q. I understand you to say that you had noticed no subsidence sinking in any of these islands. None of the islands have been sinking down?
A. No, sir, I have not seen any.
Q. Not since 1867?
A. No sir.
Q. You have been in there ever- week?
A. Every week fishing all around in the winter.

F. W. ELMER, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Mr. McCLURG:

Q. How old are you?
A. 57.
Q. Where do you live?
A. In Biloxi.
Q. For how long have you lived here?
A. 57 years.
Q. What is your occupation?
A. I am mayor of Biloxi.
Q. Biloxi is in Harrison county I believe?
A. Yes sir.

Q. You have represented this county in the State senate?

A. In the house on three occasions.

Q. Mr. Elmer, this is a controversy between the State of Louisiana and the State of Mississippi as you know over the location of the boundary between the two States to the waters of the Gulf. Louisiana claims that the true line is what is now known as the deep water channel coming out of the mouth of Pearl river to the Rigolets eastward near the Mississippi shore until it comes up in the neighborhood of Gulfport, turning thence southward into the Gulf east of the Chandeleurs, while Mississippi claims that under the acts of Congress admitting Louisiana and Mississippi into the American Union, that Mississippi's line follows the meandering of the shore between the Alabama line and Pearl river, and that it extends 18 miles south of it at every point from the shore and
1527 with the meanderings of the shore including all islands within that reach, and within this limit claimed by Mississippi is Grand marsh. I want you to state to the commissioner if you please what you know about this territory in dispute, as I have in a general way described it to you?

A. Well all that I know in connection with this matter is that the State of Mississippi, the description is definite, and that our western line where the State joins Alabama and extends out six leagues, meandering with the coast, including as you have stated to me the islands within the territory which would entirely take in that portion of the Grand marsh claimed by Louisiana.

Q. Do you know where Isle à Pitre is?

A. I don't know much about that country out there no sir.

Q. Were you ever engaged in the oyster and fishing trade?

A. I believe I was one of the pioneers in this industry?

Q. When was this?

A. I think that it was in 1877 that I commenced shipping fresh oysters from this territory.

Q. From what portion of the territory were your oysters taken?

A. Pretty much all of the oysters that I shipped came from Grand marsh.

Q. From 1877?

A. Yes sir.

Q. There has been a good deal said about the exhaustion of the oysters from Back bay, and that the Mississippians have gone into the marsh because of the destruction of the natural reefs at other points. We would be glad if you would tell us what you know on this subject?

A. The only natural reefs that we have here are in Back bay and off Pass Christian, and the supply was always limited and the oysters were small, and we always went to the Grand marsh to get our large stock, plants, always. From the first time I went into the business the quality around here was not such as the trade demanded, and we naturally had to go over there to get that kind of stuff.

Q. In doing so state whether or not you understood that you were
oing out of the limits of your State?
A. It was naturally understood by any one who understood the
ws of the State of Mississippi that it was included in our territory,
d no question was raised until this question came up several years
go. They began to interfere with our people out there and tried
run them off.
Q. That is since this controversy arose out of which this suit
ew?
A. Yes sir, but I never have been in the marsh so I don't know
ything about the lay of the land, except I do know that schooners
n there for me at that time, and they would tell me that they
re bringing oysters from Creole gap and Nine Mile bayou and
ree Mile bayou and all of these points in controversy.
Q. Did your ancestors live on the coast?
A. My father settled here in Biloxi in 1835.
Q. Have you any knowledge or information at all to the effect
at this deep water channel, which I assume you have some knowl-
edge of passes out of the mouth of Pearl river to the Rigolets
28 eastward and to the north I believe of St. Joseph, and Grassy
and Half Moon islands and turning southward a little west of
t island. Have you any information to the effect that that chan-
l has ever been recognized as the dividing line between the States
Louisiana and Mississippi?
A. I never heard that question raised, nor questioned. Never.
Q. Have you any knowledge or information of any kind what-
r, traditional, historical, or personal knowledge as to there ever
ving been any dispute as to Mississippi's claim to the jurisdiction
sovereignty over the waters within 18 miles of her shore?
A. No sir.

Cross-examination.

By Col. ZACHARIE:

Q. Mr. Mayor, have you ever examined the text of the act admit-
g Mississippi into the Union?
A. I have read the act.
Q. Do you remember about this description of the southern bound-
as near as I can repeat it; "Starting from a point near Pasca-
la and then westwardly to the mouth of East Pearl river, includ-
all islands within six leagues of the shore"?
A. That is not my understanding of the description of the State.
understanding is that it starts at Pearl river and runs up to a
ain paral-el and then to the Mississippi and to a certain paral-el
nd comes down on the Alabama line and runs out from there.
Q. I am speaking of the southern boundary of Mississippi?
A. I thought you meant the boundaries of the State.
Q. Do you remember the language to be westwardly from a point
r Pascagoula?

A. I think it says westwardly.

Q. Mississippi was admitted into the Union in 1817?

A. Yes sir.

Q. Louisiana was admitted in 1812 was not it?

A. Yes sir.

Q. Did you ever examine the act admitting Louisiana into the Union and see the description of her eastern boundary so far as these waters were concerned?

A. My understanding about Louisiana was that it was first formed from the Louisiana territory as purchased by the Government from Napoleon, and he did not sell anything except what has been given here and that is that portion west of the Mississippi river. All of this portion on this side was reserved and constituted Florida is my understanding.

Q. Don't you know that the French as well as the United States Government claimed that the Louisiana purchase extended to Mobile?

A. No sir, I am not familiar enough to answer that question.

Q. Do you not know that Congress passes a secret act authorizing Mr. Madison to take possession of this country as far east as Mobile with the privilege of keeping this act secret until such time as the President saw fit to promulgate the act?

1529 A. No sir, my reading of history was that the people voluntarily moved to abruptly take possession of this territory, and after that time that Congress took some action.

Q. Have you ever looked at and examined the boundary line of the State of Louisiana as admitted into the Union?

A. I have read it yes sir.

Q. Do you remember that clause in it which embraces and includes the islands of the coast of Louisiana? within three leagues?

A. Yes sir.

Q. Well would there not be a conflict there as it approaches the mouth of East Pearl river?

A. In reading the boundary line of the State of Louisiana it occurs to me that the act of Congress goes on and states where it comes through Manshac that it runs on through Lake Pontchartrain and to the Rigolets, and it is lost right there and does not go any further, and the second description runs out to East Pearl river. But the first description loses itself at the Rigolets.

Q. Undoubtedly it did, because a month or two later Congress passed an act annexing what are now four or five Florida parishes to Louisiana, and leaving it to Louisiana whether she would accept this addition to her territory, and if she did then the line should be down to East Pearl river to the mouth of it. Do you remember that?

A. Yes sir.

Q. And Louisiana accepted that addition to her territory?

A. I don't know what Louisiana did. I know in the description of the State that is the way that the boundaries are defined.

And then the act admitting Louisiana was amended in order brace that territory, and the boundary was fixed at East Pearl going down to the mouth of East Pearl river, and thence to ulf of Mexico, including all islands within three leagues of the iana coast. Now is there not a conflict there between these escriptions. One of Mississippi and the other of Louisiana?

I cannot answer that question, because in reading the descrip- f Louisiana this second act that you speak of, I did not notice further than to carry the line to East Pearl river, and said ng about any islands within three leagues in my reading of it.

Mr. McCLURG: The State of Mississippi by her counsel reserves ception to this question on the ground that it calls for an on of the witness as to the construction of an act of Congress ting these States, and the witness is not competent to testify s point.

How long have you been a resident of Biloxi?

57 years.

Is it or is it not a fact that so far as your recollection extends his marsh territory has been almost universally called the iana marshes?

Not originally. When I first went into this line of business ey frequently called it Grand marsh. Here lately they have calling it Louisiana marsh.

Q. Since when?

A. In the last seven or eight or ten years. Possibly a little longer than that.

You have stated that there were oyster reefs here in Back bay t Biloxi and also in front of Pass Christian. Were there not oyster reefs to the east of here, between here and Pascagoula, hen on in the different bays and inlets to Mobile?

Yes sir, there is quite a large reef opposite Pascagoula river, has only come into the market in the last eight or ten years ly of much value.

Well now is it not a fact that until quite recently the fisher- n this coast were in the habit of fishing from these reefs all g the summer when the oysters were spawning. Pass Christian nd at Pascagoula and in this neighborhood?

I think that it has been customary for the most of the people un a retail trade here in oysters to get them from the outside

What do you mean by that?

On the Grand marsh and outside of Pass Christian.

Has it not been the habit of the people here in regard to the n the vicinity of Biloxi both to the eastward and the westward, ting the oysters from these reefs to fish them in the summer the oysters were spawning?

Well they fished in the year round, but a very limited quan- n the summer time.

Q. Well there is a large aggregation of strangers here in the summer is not there?

A. Yes sir.

Q. Along this coast?

A. Yes sir.

Q. Are not the boarding houses and the hotels and the oyster shops along this coast. Have not they been supplied with oysters during the summer?

A. Those oysters don't come from this section hardly at all.

Q. Was there any law in Mississippi regulating and concerning the fishing of oysters until quite recently?

A. Well I don't know how far back I can go in relation to that business. The boards of supervisors of this county and of all of these coast counties have had jurisdiction over this matter for a number of years. They have exercised it for a number of years back, but I cannot say how far.

Q. Can you point me to any regulation or give me the year in which the supervisors of Harrison, Hancock or Jackson counties have established any rules against fishing oysters during the spawning season in the summer?

A. Well not particularly, but to show you that they did exercise some authority over this matter, in 1882 I leased from the board of supervisors this planting ground on the bar there opposite this town. It has been 22 years ago.

Q. Now Mr. Mayor, was there until quite recently any law or regulation as to the culling of oysters on the beds. On the reefs?

A. No sir, I don't know how many years back now that that regulation was passed.

Q. Was there any law on that subject?

A. I can not answer that question.

By Mr. McCLURG: I think perhaps the first culling law was in 1896.

1531 By Col. ZACHARIE:

Q. Were not there oyster reefs on that portion adjoining Deer island out in front of Biloxi?

A. There was never an oyster reef on Deer island to my knowledge except possibly some stray oysters scattered along on the shore. I never knew of any oyster reefs except some private reefs around Deer island. I don't know of any.

Redirect examination.

By Gen. McCLURG:

Q. You spoke in answer to questions propounded by the counsel for the State of Louisiana of the boards of supervisors having the authority to enact ordinances and rules regulating the oyster business. Can you tell us how far down from the shore the boards of these coast counties undertook to exercise jurisdiction?

A. I could not tell you. I would naturally suppose that it would be to the limits of the State.

Q. You mean to say six leagues from the shore?

A. Yes sir, I would naturally presume so.

Q. You have also stated that your information was that the people abruptly took possession of this territory and that Congress afterwards acted on it?

A. That is my understanding from reading history. That is where I got my information.

Q. Do you refer to that part of our own State history in which this territory was formed into Jackson, and Hancock counties after December 1812, long before she was admitted into the Union and before this proclamation was issued by Madison?

A. About that period yes sir.

Q. That is true is it not, and introduced in evidence in this case?

A. Yes sir, to the best of my knowledge the counties were formed in 1812. Harrison coun'y was carved out of Hancock, between Bay St. Louis and Biloxi bay in 1841.

The commission here adjourned until tomorrow morning at nine o'clock.

The commission met this morning, June 10th, at nine o'clock, there being present Hon. William D. Bullard, commissioner. Hon. Monroe McClurg, counsel for the State of Mississippi, and Hon. F. C. Zacharie, counsel for the State of Louisiana.

CHARLES WILLIAMS, a witness introduced on behalf of the State of *Louisiana*, being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. Mr. Williams, how old are you?

A. 38 years old.

Q. Where do you reside?

A. In Biloxi Mississippi.

Q What is your occupation?

1532 A. Oystering and fishing.

Q. How long have you resided in Biloxi?

A. 38 years.

Q. How long have you been engaged in the oyster business?

A. Well I have always been in the oyster business. For about 15 years I have been running on a boat.

Q. The 15 years last past?

A. Yes sir.

By Col. ZACHARIE:

Q. You say that you have always been in the oyster business?

A. Yes sir, off and on.

Q. You have been in it all of your life?

A. Yes sir ever since I was big enough to work.

By Gen. McCLURG:

Q. On what part of the coast have you been engaged in the oyster business?

A. The Mississippi coast.

Q. Are you familiar with the Mississippi coast between Pearl river and Pascagoula river?

A. Yes sir, and over to New Orleans.

Q. All of the way to New Orleans?

A. Yes sir.

Q. Have you ever taken oysters in those waters during the last 15 or 20 years?

A. Yes sir.

Q. Tell us please sir, going west from the Bay of Biloxi where you were in the habit of fishing oysters?

A. Well I have fished them all of the way from Cat island to Half Moon to the westward and to the southward from there to what they call American bay. That is down back of Neptune.

Q. Have you ever fished oysters about Isle à Pitre?

A. Yes sir.

Q. Bayou Greecue?

A. Yes sir.

Q. About Turkey bayou?

A. No sir, I never come in Turkey bayou.

Q. Have you been through Turkey bayou?

A. No sir.

Q. Were you ever through Three Mile bayou?

A. Yes sir often.

Q. Often?

A. Yes sir.

Q. Have you ever been through Nine Mile bayou?

A. Yes sir.

Q. Do you know where Raccoon island is?

A. Yes sir.

Q. And the Karako bayous?

A. Yes sir, I have been all through there.

Q. Indian Mound bay?

A. Yes sir.

Q. Southwest pass?

A. Yes sir.

Q. You have been in all of that country?

A. Yes sir, in all of that country.

Q. Taking fish and oysters?

A. Yes sir, all through there.

1533 Q. In what State were you please sir were you when you were in that section?

A. Well I could not exactly state what State I was in.

Q. Well how far south from the Mississippi shore if you know does the State of Mississippi extend?

A. Well I have always heard that it was three leagues.
Q. Three leagues or six leagues. How many miles if you know?
A. 18 miles I have always heard it.
Q. 18 miles?
A. Yes sir.
Q. When were you in this pass and about these islands about hich I have interrogated you. State whether you considered your-lf then within 18 miles of the Mississippi shore then or not.
A. Yes sir, in pretty near all of them. That is as far down as rum bay.
Q. As far down as Drum bay?
A. Yes sir.
Q. I understand that you considered that you were in the State of ississippi. Is that correct?
A. I considered myself within 18 miles of the Mississippi shore.
Q. Now what sort of a boat did you use Captain. Have you been ing?
A. Well at first a boat 42 feet. The last one that I used was a all one drawing three and a half feet loaded.
Q. How much did your first boat draw?
A. Four and a half feet loaded.
Q. I want you to state please sir where you went through the marsh ith your first boat that drew four feet loaded?
A. Well we went pretty much all over it, but we has to wait for e tide. In a light tide we could not get through there with it aded. We had to wait for the tide. That is through the main sses. There were plenty of passes that we could not get through ere at all.
Q. Through the main passes you could?
A. Yes sir.
Q. How about Nine Mile bayou?
A. We could go through that on the west side, but on the south d east side we had to wait for the tide. In low tides we had to it for the tide to rise.
Q. Could you travel at mean tide, or average tide through Nine ile bayou and False Mouth bayou and as low down as Indian ound bay?
A. No sir, not loaded. We had to wait for an extra high tide.
Q. An extra high tide to make it down there. How about going wn through Three Mile bayou?
A. There is plenty of water at the mouth of Three Mile bayou, t when you get inside it is the same thing. You have to wait for e tide.
Q. How about Johnson bayou?
A. You can go through there with a loaded boat. In the inside outh.
Q. How much water could you draw in Johnson bayou?
A. With a low tide you could get in there about two feet.

Q. I believe you stated that you had not been through Turkey bayou?

A. No sir, I never was through Turkey bayou.

1534 Q. Have you ever been through Grand pass?

A. Yes sir.

Q. How much could you draw through this pass?

A. Well at the east mouth with a low tide you get about four and a half feet with a dead low tide.

Q. And Grand pass about four feet?

A. Yes sir.

Q. Do you know Creole gap?

A. Yes sir.

Q. Have you ever been through there?

A. Yes sir, often.

Q. Do you known Sun Down island?

A. Yes sir.

Q. Jack Williams bay?

A. Yes sir.

Q. You have been all through there?

A. Yes sir, all through there.

Q. When was it that you first went into this marsh?

A. About 15 years ago. I don't know the year exactly.

Q. Have you ever been regularly in it since?

A. Yes sir, up until last winter. I was not there last winter; not in there.

Q. About how often would you go into this marsh prior to last winter?

A. Well in the winter time we would make three or four trips there a month.

Q. Three or four trips a month?

A. Yes sir.

Q. Have you ever observed the general formation of these islands and the mouths of these bayous of which we have been speaking and can you say whether you have noticed any material changes within the last 15 years?

A. No sir, there has been no change, only maybe a little washing. Maybe they have gotten a trifle wider. That is all the change that I see.

Q. At what point, Captain have you noticed these insignificant changes?

A. Three Mile bayou is about the only one as near as I can remember.

Q. Have you noticed any subsidence, any sinking in the general surface of the marsh since you have been in there?

A. No sir, it has always been just the same since I have been running in there.

Q. Were you called upon to buy a license to go into this country?

A. No sir. The last two years I have run in the marsh, what I mean by that, I have no license from Louisiana, because for the

ast few years I have not run in Louisiana, that is in the marsh, I nean by that since I was paying license in the marsh I was running in the marsh.

Q. What did they call that marsh Captain?

A. Grand marsh is what I have always heard it called.

Q. Have you known it as Grand marsh for the last 15 years?

A. Yes sir, we always spoke of it as Grand marsh.

Q. How far west did you understand that marsh to extend?

A. Well it is all Grand marsh to me.

Q. How far west.

A. We would say Grand marsh and we would mean it all.

535 Cross-examination.

By Col. ZACHARIE:

Q. Mr. Williams, you say that you have fished oysters as far south s Drum bay? And American bay?

A. Yes sir.

Q. Have you ever fished them as far south as California bay?

A. No sir.

Q. You mentioned one point I believe, American bay, as being ack of Neptune?

A. Close to Neptune. That is close to the factory. Mr. Lopez has factory there that he calls Neptune and this American bay is close o that.

Q. What is Neptune. Is not that a little settlement in the parish f Plaquemines?

A. Yes sir, that is what I understand it.

Q. Did you consider American bay as being within 18 miles of he Mississippi shore?

A. No sir, I said when I was in Drum bay that I considered myelf within 18 miles of the Mississippi shore, and from there on down was of course further.

Q. As I understand your general testimony in regard to the navigation of these bayous and passes it is that at the mouth of the passes here was a good deal of water, but in going through from north to outh and in low water there was hardly over two feet, and you could ot get through if you were loaded?

A. No sir, you can not go through there with loaded boats on the outh side in low water. You have to wait for the high water.

Q. Did you not find yourself grounded very often on Mud flats nd you would have to heave your vessel off with a windlass and opes?

A. Yes sir, often.

Q. In order for you to get through with a vessel drawing four or our and a half feet of water you would have to wait would not you or the high tide?

A. Yes sir, in nearly all of the passes except Grand pass. In

Grand pass with an ordinary tide you could go through there easy but with a low tide you could not.

Q. Now Mr. Williams is it not a fact that these marshes are generally known and called by the fishermen the Louisiana marshes?

A. I have heard it called Grand marsh and Louisiana marsh both.

Q. Suppose prior to this dispute I went out as I have done here and asked these people where they got their oysters from, would not they almost universally reply as they have done to me, that they got them from the Louisiana marshes?

A. Some of them would yes sir.

Q. Well now you say that there has not been much change in this territory in the last 15 years during which time you have been engaged in this business. Did you ever pay particular attention to know the changes?

A. If there had been any change of note at all I certainly would have noticed it running through there so much. If there is any change at all it is very lately.

Q. Then if a number of witnesses have testified that the mouth of Nine Mile bayou, Three Mile bayou, Johnsons bayou, Creole gap and Grand pass have widened to double the amount of width. I say that if a number of witnesses have testified to that they have not testified correctly have they?

1536 By Gen. McCLURG: The counsel for the State of Mississippi reserves an exception to this question on the ground that it calls for an opinion from this witness as to the truthfulness of other witnesses who have testified in this case, and whom it has not been undertaken to impeach. The counsel for the State of Mississippi knows of no rule of evidence or practice that authorizes or justifies a question of this character. Let the witness testify to what he knows about these facts and let the court determine upon the weight and the sufficiency of the whole testimony upon these points.

Q. Then if a number of witnesses have testified that the mouth of Nine Mile bayou, Three Mile bayou, Johnsons bayou and Creole gap and Grand pass have widened to double the amount of width. I say, that if a number of witnesses have testified to that they have not testified correctly have they?

A. They have not widened to no double. I am confident of that Since my time they have not.

Q. How much have they widened?

A. It has been very little, and we can not notice it except Three Mile bayou has widened a little since I can remember.

Q. How about Creole gap?

A. Of course that has widened a little, but it has been such a little since I have been running there. I don't suppose that it has been fifty feet.

Q. How wide was Creole gap when you first knew it 15 years ago?

A. Well I cannot say exactly.
Q. No, I don't want you to say exactly?
A. It was not very wide and it is not very wide now.
Q. About how wide was it?
A. Well it was perhaps 300 feet.
Q. When you first knew it?
A. Yes sir, at the narrowest place.
Q. How wide is it now?
A. It looks like to me that it is about the same yet. I can not see any difference.
Q. Do you know the history from tradition or hearsay as to how this gap was created?
A. Yes sir. I have heard that there was a boat the Creole got ashore there around there in a lagoon and they dug there to get her out.
Q. Now Mr. Williams in regard to the shore along the coast of these marshes. Has not that shore been washed away a good deal at times within your knowledge?
A. Well on the east side there has been a little washing, and on the south side, but on the west side I can not see any change at all. The mud down there is more like putty and the water don't have much effect on it.
Q. Do you know the islands lying north of this shore commonly known as the Malheureux islands. That is Grassy and Half Moon and Round islands, and St. Joseph and those other islands?
A. Yes sir.
Q. What change has taken place in those islands if any within your knowledge?
A. Well there was a small one there that had grass on it and now it is nothing more than a shell heap. The grass is gone off of it.
Q. What is that; Round island?
1537 A. It is a little island standing southwest.
Q. Do you know it by the name of Round island?
A. No sir.
Q. Do you know what changes have taken place in St. Joseph island?
A. Yes sir, that has done the same. It has washed. It was very small when I remember it.
Q. Have not Round island and St. Joseph island entirely disappeared under the tide?
A. Yes sir, in high tide they are covered.
Q. What change has taken place in regard to the Half Moon and Grassy islands?
A. I can not see any at all.
Q. There is no washing away at all?
A. No sir, none that I can notice, no sir.
Q. Now Mr. Williams, do you know what is the deep water channel which vessels of considerable depth follow in going from Cat Island to the eastward through the Rigolets?

A. Yes sir, I know that pretty well.

Q. Where does that channel pass in relation to these islands that we have been talking about?

A. It passes on the north side of Half Moon island, and then it passes next to the main land and comes on down to the Rigolets.

Q. Now as you approach the mouth of East Pearl river how close does the channel run to the Mississippi main land?

A. It passes in less than a quarter of a mile at what they call Heron Bay point, and then of course as it goes on down it hauls off a little further and comes close to the mouth of the Rigolets.

Q. You mean that it hauls off a little to the southward?

A. Yes sir a little to the southward.

Q. Is that the channel that larger vessels and of greater depth always pursue?

A. Yes sir, that is the main channel for them going in there.

Q. Coming from the mouth of East Pearl river towards the east where does this channel branch off from the channel which continues to the eastward?

A. It is just after you get past Half Moon.

Q. St. Joseph?

A. Yes sir, and then it comes a little more to the right, and the other one goes to the left.

Q. You mean that it runs to the southeast?

A. Yes sir.

Q. Where does it pass in relation to Cat island and Isle à Pitre?

A. It passes south of Cat island and north of Isle à Pitre, and closer to Cat island than Isle à Pitre.

Q. Now in regard to Grand pass. That is the pass that is between Isle à Pitre and the marshes is it not?

A. Yes, sir, there is one south of Creole gap. South and west.

Q. How wide was this pass when you first knew it?

A. Well I could not say exactly. I don't see any change between now and then.

Q. I want an answer to my question. I am asking you about how wide this pass was at the time that you first knew it?

A. Well from one marsh to the other; from one point to the other it is may be 400 yards. I don't know that it is quite that.

Q. Not quite that?

A. No sir.

Q. How wide is it now?

A. I can not see any change. It is about the same thing.

1538 Q. Have you ever paid any particular attention to any changes as you were passing along there?

A. No change I saw, and if there had been any material change I would certainly have seen it.

Q. Now it has been claimed in this case on behalf of Louisiana that there has been a sinking going on, a gradual subsidence or sinking of these marshes. Did you ever pay any particular attention to know?

A. No sir, not exactly, but I have been walking there over the rsh and I have not seen any change in it at all.

Q. Have you ever noticed from the pilings; the pilings on which camps were erected; the poles and posts driven in the ground, ther or not the marsh soil is going down?

A. No sir.

Q. You have never noticed that?

A. No sir.

Q. Then I understand your general testimony to be that during r 15 years' experience in this section that you have noticed no nges except the widening of the mouth of Three Mile bayou and sibly a small change at Creole gap?

A. Yes sir, but if there is any change at Creole gap you can not e it at all. There has been so little.

Q. I understand you to say that you have been fishing and ghting oysters from this territory. Where to?

A. To Biloxi.

Q. To whom did you carry these oysters. To the canneries?

A. To the canneries yes sir, and to what we call the raw oyster ers too.

Q. Who are the raw oyster dealers?

A. They are the ones that open the oysters and ship them raw the States.

Q. Is that a distinct business from the canneries?

A. Yes sir.

Q. Have you ever investigated this boundary question or have not just gone along without bothering your head about the ndary?

A. Well I have not investigated it no sir.

Q. Now prior to the institution of this suit and just immediately re the suit was instituted was there any question or discussion ng the fishermen so far as you know about where the boundary between Louisiana and Mississippi was?

A. Not as I ever heard any thing of.

Q. They were allowed heretofore to fish in all of the territory out objection so far as you know, and they never bothered their s about the boundary question. Is not that so?

A. No sir, they never bothered us only way down. In Plaquemes parish it has been so for a good while that a man had to get ense there. That is down close to what they call Neptune. It been that way for the last five or six years.

Q. They did not bother you before that?

A. No sir.

Q. You say that you have not at any time taken out any license shing in this territory either in Mississippi or Louisiana?

A. No sir.

1539 Redirect examination.

By Gen. McCLURG:

Q. Counsel for the State of Louisiana asked you Mr. Williams about the deep water channel, passing out of the Rigolets and Pearl river to the eastward, and on out between Cat island and Isle à Pitre. I want to ask you whether you have ever considered; or if you know by history or tradition whether that line, the deep water channel has ever been considered the line dividing Louisiana from Mississippi?

A. Not that I know of no sir.

Q. You never heard of it?

A. No sir.

Q. You also answered that you walked over the marshes. I want to ask you if you encountered any musk rats in walking over the marshes?

A. I never saw one in my life that I remember of.

Q. Could you say whether or not they have made any depredations in this marsh?

A. I never saw any signs of that.

Recross-examination.

By Col. ZACHARIE:

Q. On that last question. Did you find places that had been burrowed in and that were soft and would give away under your feet?

A. Well I have found small islands in the marsh to the southward. I know one place, but what caused that I don't know. I know that I was walking in the marsh. That is down close to American bay. I suppose that is what you speak of.

Q. Your feet would give away and sink into these holes?

A. The holes were already there.

Q. Was there any thing about these holes to show burrowing?

A. No sir.

J. S. WENTZELL, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Mr. McCLURG:

Q. How old are you?

A. 47 years old.

Q. Where do you live?

A. In Biloxi.

Q. How long have you lived in Biloxi?

A. I was born and raised here in Biloxi.

Q. What is your occupation now?

A. Fishing, and oystering and terrapin hunting.
Q. How long have you been so engaged?
A. Ever since I was big enough to go out.
Q. About what age were you when you began?
A. I began fishing and oystering around Biloxi here, and then
ien I started out for the marshes I guess that I was 25 or 27 years
old at that time.
40 Q. You have not visited the marsh since when?
A. It has been about twenty years since I was in the marsh.
Q. You have been there for about that time constantly?
A. Yes sir.
Q. About how many times a year did you go there?
A. When I would go out there I would generally stay there 20 or
days at a time.
Q. How often did you go?
A. I am very near all of the time in there except these hot sum-
er months, and then up to a couple of years ago I was terrapin
nting in the summer time too.
Q. Do you know where Isle à Pitre is?
A. Yes sir.
Q. Grand pass?
A. Yes sir.
Q. Creole gap?
A. Yes sir.
Q. Johnson bayou?
A. Yes sir.
Q. Turkey bayou?
A. Yes sir.
Q. Three Mile bayou?
A. Yes sir.
Q. Nine Mile bayou?
A. Yes sir.
Q. Petit pass?
A. Yes sir, I have been in there a couple of times.
Q. You are familiar with the lands in there?
A. Not Petit pass. I have gone down to Isle à Pitre and that
ie as far as Three Mile bayou.
Q. Did you ever go south through Three Mile bayou in a boat of
y kind?
A. Yes sir, I have been down as far as Taylor's pass.
Q. How far is Taylor's pass south of the entrance to Three Mile
you from the north?
A. I could not tell you. Taylor's pass is way off by Neptune.
aylor's pass is abreast the salt works down the Mississippi river.
Q. You have gone by boat through Three Mile bayou down
rough the marsh and Taylor's pass?
A. Down through the marsh into Broad bay and through Nigger
ke. Some times we would go through the marsh and some times
the outside.

Q. Through Three Mile bayou?
A. Yes sir, through Three Mile bayou.
Q. When did you first do that?
A. About twenty years ago. First I was oystering and then I was terrapin hunting. When I went oystering I went through there, but when I went terrapin hunting I never went through there at all. I kept on down to the southward.
Q. What kind of a boat were you in?
A. A small boat and then a large boat.
Q. How much draft?
A. About 22 inches light.
Q. Were you ever in Treasure bay?
A. No sir.
Q. Indian Mound bay?
A. Yes sir.
Q. Do you know where Mud Island is?
A. Yes sir.
1541 Q. Karako?
A. Yes sir.
Q. The Raccoons?
A. Yes sir.
Q. You know where these islands are?
A. Yes sir.
Q. Bayou Greecue?
A. No sir, I never was in Bayou Greecue.
Q. Were you ever in Grand pass?
A. Yes sir.
Q. You have been in the neighborhood of Sundown island?
A. Yes sir.
Q. Brush island?
A. Yes sir.
Q. And about Door point?
A. Yes sir.
Q. Down as far as Martin island?
A. Yes sir.
Q. Now when you were in these places about which I have just asked you state if you know whether you were in Louisiana or Mississippi?
A. Before this dispute arose I always thought that it was in Mississippi, when I was in Grand pass and around those places, but here lately I have had to pay taxes in Louisiana.
Q. Within what time have you been paying taxes to Louisiana?
A. For the last couple of years.
Q. Before that time did you ever pay any. You mean a tax license?
A. No sir, I never paid them no tax license before two years ago. There were taxes paid in Plaquemines parish but not in St. Bernard. They never charged no taxes there.
Q. Did you ever pay a license to the State of Mississippi?

A. Yes sir.
Q. When did you pay the first one?
A. I don't know that they used it *for* five or six years ago.
Q. You paid one five or six years ago.
A. Yes sir.
Q. To Mr. Hewes?
A. No sir, it was a man by the name of Young here was an oyster lector. He collected the taxes.
Q. You paid the taxes five or six years ago to him?
A. Yes sir.
Q. Do you remember about how much you paid him?
A. It was fifty cents I think a ton for the boats.
Q. Where did you take oysters and fish under this license?
A. We fished in Grand pass and all of those places.
Q. All of these passes that I have asked you about?
A. Yes sir.
Q. You went through this marsh under this license did you?
A. I fished in Grand pass and Creole gap and on Cabbage reefs d all of these places.
Q. Did you go into Three Mile bayou?
A. No sir. Yes sir, I believe I did go into Three Mile bayou. I not sure.
Q. Have you noticed any change in the conformation of these ters and islands down there in Grand marsh since you have been ing in it?
A. No, sir, very little. There is a change in Three Mile bayou.
Q. What places have you noticed any change in Captain?
A. In Three Mile bayou it is washed there a little.
42 Q. Any other place?
A. Not that I know of.
Q. Have you noticed any subsidence, rising or sinking of this nd?
A. No sir.
Q. Or waters?
A. No sir.
Q. Have you ever been out on these islands?
A. Yes sir.
Q. How long ago?
A. Well we go every summer except this last summer. Go out ere terrapin hunting in the summer time and go by this country.
Q. Have you ever encountered any musk rats out there?
A. No sir.

Cross-examination.

By Col. ZACHARIE:

Q. I understood you to say that you had been engaged in the ster fishing and trade ever since you were able to work?
A. Yes sir, oyster fishing.

Q. And you are 47 years of age. When did you first visit these marshes that we have been talking about?

A. About 20 years ago I suppose.

Q. About 20 years ago. What were these marshes known by. By what name generally amongst the fishermen?

A. Grand marsh.

Q. Were not they also known to a very large extent under the name of the Louisiana marshes?

A. Yes sir, but at that time I was working for a Pascagoula firm and whenever they wrote letters they styled it Grand marsh.

Q. I am asking you amongst the fishermen were not they generally known as the Louisiana marshes?

A. Yes sir.

Q. Prior to that time you fished around Biloxi did not you?

A. I used to catch oysters for a man in Ocean Springs. Catchard I believe was his name.

Q. You fished in Back bay?

A. No sir.

Q. Where did you fish around Biloxi?

A. All around Biloxi. I used to go to school and on Saturdays I would go with my uncle.

Q. Were you and other fishermen at that time fishing generally all through the summer to supply fresh oysters?

A. No sir, I never.

Q. Did not the fishermen generally?

A. Yes sir, they used to catch oysters in the Back bay for the shops some times.

Q. Were not all of the boarding houses and oysters shops around Biloxi and Ocean Springs and these other coast places furnished with these oysters all during the summer. In the spawning season?

A. I don't know sir, I could not say.

Q. You could not say?

A. No sir.

Q. Do you know what was the habit of fishermen in those days in fishing oysters in regard to culling?

1543 A. They culled the oysters then a great deal better than they do now.

Q. Where. At what particular place did they cull them. Did they not cull them as they were sailing along, or wait until they got to the land and then cull them?

A. They generally culled as they sailed along unless they had too many. If they were over loaded they would wait to cull some of them.

Q. You say that you fished down as far as back of Neptune and the salt works?

A. No sir, I have been down there but I never fished down there.

Q. Did you freight oysters there?

A. No sir.

Q. You stated that the boat in which you generally went drew about 22 inches?
A. Yes sir, 20 to 22 inches.
Q. She was a skiff. Flat bottomed boat?
A. No sir, round bottomed.
Q. With a center board?
A. Yes sir.
Q. In going through this marsh. These different sheets of water in the marsh. Did you at any time find any trouble with your boat. Say in low tide?
A. Yes sir, in low tide.
Q. You run upon flats?
A. Not much trouble when I was light. It was when I was loaded.
Q. How much did you draw when you were loaded?
A. About three & one half feet.
Q. Your trouble was that you were running upon mud flats?
A. Yes sir.
Q. And you had to heave your boat off did you not with a windlass & cables?
A. Yes sir.
Q. That is the way you forced her through the mud. Now did not you have trouble also when you were light in a very low tide. In striking mud flats?
A. Yes sir.
—. ——.
A. Yes sir, in one place there. In Catfish pass they call it. Going through there we have had to wait for the tide to rise.
Q. You have testified in your examination in chief that you have not seen much change if any since you have been fishing in this marsh?
A. Except very little.
Q. Well now how about Creole gap?
A. I very seldom go through Creole gap.
Q. You don't know much about it?
A. No sir.
Q. Is it or is it not a fact that the shore line of this coast has washed away a good deal in storms and so on?
A. Well I don't know sir. I have not noticed much about that.
Q. Why did you take out a license in Louisiana?
A. Because I was compelled to take out a license in Louisiana. I fished oysters way down to the southward, and the patrol boat told me that I would have to take out a license there.
Q. They did not tell you that you had to take out a license for fishing in these marshes or in the neighborhood of these marshes?
A. No sir, I went out terrapin hunting out there and they told me that if I come oystering that I would have to have a license, so when I went oystering I took out a license.

1544 Q. You simply took out a license in Louisiana because you proposed to fish in Louisiana below this territory?

A. Yes sir.

Q. Do you know what is called the deep water channel between the coast of these marshes, the northern coast and the main line of Mississippi to the north?

A. No sir, I never bothered around these places at all.

Q. I suppose the reason for that was that your boat was of such light draft that you never made use of them?

A. No sir, when I left here I went right to the marshes. I never oystered any steam oysters.

Q. Do you know the islands St. Joseph and Round island and Grassy island?

A. No sir, I know nothing about them at all. I passed there a couple of times year before last.

Q. Are you still engaged in the fishing of oysters?

A. Yes sir.

Q. To whom did you deliver these oysters?

A. I sold my oysters to the steamboat out there running to New Orleans.

Q. Have you or have you not at times supplied the canneries here in Mississippi?

A. No sir.

Q. When did you first commence fishing oysters around Biloxi and in this neighborhood? At that time were there many Mississippians engaged in going to this Grand marsh or Louisiana marsh?

A. Yes sir, they used to go there for the raw oysters.

Q. A great many of them?

A. Pretty nearly all of them.

Q. Now is it or is it not a fact that the great body of Mississippi fishermen along this coast commenced going to these marshes after these canneries were established here along this coast and then there began a great demand for oysters?

A. Before the canneries were here all of the raw trade was here. The boats used to get the raw oysters. The raw oysters are bigger oysters than the cannery oysters.

Q. I want to get at the relative trade at these marshes. Is it or is it not a fact that a large proportion of these who are fishing just now down about the Louisiana marshes; that that has all grown up since the establishment of the canneries along this coast and the great demand for oysters?

A. Yes sir.

Q. There were a few that went there for raw oysters. You said something just now about going there for raw oysters. Did you say that they were better oysters?

A. Yes sir, the oysters in the marshes were better.

Q. Well now did not the oysters in this neighborhood and the oysters to the eastward from here enjoy equally if not a better reputation in the market than the oysters that come from the marshes?

A. I don't know sir.
Q. For instance the Back Bay oysters and the Pascagoula oysters, nd the oysters coming from towards Mobile. Don't they enjoy a ery high reputation and command a very high price in the narket?
A. Yes sir, the Back Bay oysters are usually considered the est oysters.
Q. Well what is the reason then that these people instead of going to the Back bay and other places in the neighborhood of Biloxi for the purpose of getting their oysters. Why is it 1545 that they would go way off to the marshes to get their oysters?
A. Because there were not enough in the Back bay to get.
Q. Now were not there other oyster reefs off to the eastward?
A. No sir, they were all scarce there. They could not get enough.
Q. Were not there oyster reefs off of Pass Christian?
A. Yes sir.
Q. Were not there small reefs off of Deer island?
A. Off the inside or outside?
Q. Both?
A. There were a few on the inside.
Q. I am now speaking of when you first commenced oyster fishing. Is it not a fact that on account of fishing oysters in your neighboring reefs here all during the summer, all during the spawning time as well as the not culling the oysters on the reefs, created a great falling off in the oyster reefs in this neighborhood and helped to destroy your oyster reefs here?
A. Yes sir.
Q. Do you know when the State of Mississippi or your board of supervisors here first commenced to enforce any regulations about fishing oysters during the summer?
A. No sir.
Q. Or about the culling?
A. No sir, they made the laws but they never enforced them.
Q. They made the laws but they never enforced them?
A. No sir.

J. M. RITCH, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLURG:

Q. How old are you Mr. Ritch?
A. 53.
Q. How long have you lived in Biloxi?
A. I might say all of my life.
Q. What is your present occupation?
A. Well at present time I am doing nothing at all.
Q. What has been your occupation since you lived in Biloxi?

A. Carpentering and oystering.
Q. When did you begin oystering?
A. 32 years ago.
Q. Where did you oyster then?
A. Down in Alabama near Cedar point.
Q. Did you ever do any oystering between Biloxi and Pearl river?
A. Well not near the main land.
Q. At what place?
A. Cat island and around the immediate neighborhood of Cat island.
Q. Did you ever go south of Cat island?
A. Yes sir, to the southward and the westward of Cat island, mostly to Grand pass and Bayou Pierre and Creole gap and out in the neighborhood of southwest of Martin island.
Q. What state were you in then. The State of Louisiana or Mississippi?
A. I don't know sir.
Q. Have you any information at all as to the limits of the State of Mississippi?
A. Nothing more than hearsay.
Q. What is that?
A. Well I have heard that it was six leagues.
1546 Q. From what?
A. From the State line. Pearl river, that is what I have heard.
Q. You don't know of your own personal knowledge?
A. No sir.
Q. How long have you been hearing that?
A. I would judge anywhere from 12 to 20 years.
Q. When were you first about Isle à Pitre and Grand pass and Martin island?
A. About 1871 or 1872.
Q. When were you last there?
A. I was there about 1896 or 1897.
Q. Did you notice or not any material changes anywhere in that section that you frequented and were familiar with between the first time you were there and the last time? If so what was it?
A. Yes sir, I have noticed some. Principally at Creole gap.
Q. What other changes?
A. Well none to amount to anything except at Creole gap.
Q. What was the change in Creole gap?
A. A deepening of the water.
Q. Was there any change in the widening?
A. Very little. I think there was some but I won't be positive.
Q. Were you ever as far west as Three Mile bayou?
A. Yes sir.
Q. Did you ever go through Three Mile bayou to the southward?
A. I have been to the west from the southward coming out this way from the north.

Q. What sort of a boat were you in?
A. A small boat. About 38 feet I guess.
Q. How much draft?
A. About four and a half feet.
Q. You say that you have gone in and out of Three Mile bayou?
A. We have gone through. Going through to the southward when we were light.
Q. How far down did you go?
A. Well I really don't know the distance. It is down what they call Chimney bayou. I don't know the name of it really from the map. We did not use any maps at all. We used a sounding pole as a rule.
Q. Do you remember anything about Raccoon island and Karako bay?
A. I never have been ashore on Raccoon island.
Q. You know where they are?
A. Yes sir.
Q. Did you pass them when you went down there through Three Mile bayou?
A. Yes sir, we left them to the southward of us as we come through Three Mile and Nine Mile bayou. In fact it has the same mouth at the south side. You go to Nine Mile bayou and turn to the northwest and come down Three Mile.
Q. How is that?
A. It was the same mouth. We would go to Nine Mile bayou and turn to the north east if we were coming to Biloxi, and if we were going to New Orleans we would keep to the northward and go through Nine Mile bayou.
Q. Do you know where Door point and Brush island are?
A. Yes sir.
Q. Did you ever make a trip from these points through Three Mile bayou?
A. Yes sir.
Q. In your four and a half foot boat?
1547 A. No sir, not in that one.
Q. What draft?
A. About three feet.
Q. You say that you have been to Nine Mile bayou the same way?
A. Yes sir, that is the same entrance at the south entrance.
Q. Coming to Biloxi you would come out of Three Mile?
A. Through Three Mile because it was closer.
Q. And to New Orleans you would go out of Nine Mile?
A. Yes sir.
Q. What would you be loaded with?
A. Oysters.
Q. Where did you get those oysters?
A. Well at different places. Some come from Karako bay, and we have gotten them from what we call Jack Williams bay.

Q. Could you make a trip from Jack Williams bay around through Nine Mile bayou?

A. No sir, from Jack Williams you would go through Grand pass, and from the other side you would go through Nine Mile bayou.

Q. Did you ever fish oysters in Drum bay?

A. Very few. Not a great many. I never fished a great deal on the inside of the marsh. That is not any distance in. We fished about Karako bay mostly.

Q. Were you ever on any of these islands?

A. Yes sir, I have been on some of them.

Q. What islands were you ever on in there?

A. I have been on Brush island.

Q. Were you ever on any of the other islands?

A. Yes sir, different places through the marsh but I don't know the names of them.

Q. When were you first on these islands?

A. Well I could not say. We were on these islands when I first began to run down there to the marsh. When I first went down there I went from Mobile, but in bad weather we fished on what is known as the Shell Banks reefs, and bad weather we would go into the Grand pass, and then we were liable to go ashore there after coons. Different parties would ask us to catch them a coon and carry them to them.

Q. Where did you catch the coons?

A. All through the marsh land. There were plenty of them when I first went down there. There was no trouble to catch a coon after you got there. You would find a dozen of them there at a time.

Q. Where were the coons most plentiful. To the east or the west of Grand pass?

A. They were the most plentiful to the west. You could find one almost any where there.

Q. Do you know where Isle à Pitre is?

A. No sir.

Q. Do you know any thing about where it got its name?

A. No sir.

Q. Some of the witnesses have testified in this case that its name came from Isle à Pied. Isle of the tracks. That Cat island got its name from the French when they first came there and they saw a great many coons and they thought they were cats. In looking for coons on these islands have you ever encountered any musk rats?

A. No sir.

Q. Have you ever noticed since the first time you went in there any difference in the height of these islands. Has there been any subsidence, or sinking or rising?

1548 A. No sir, I have never noticed any difference in the height of them. There have been some small hills that would be probably as long as from here to the wall that have disappeared, washed outside, but outside of that I have not seen any disappear, the grass on it has been burned a great many times, and a great

many people would say that it is lower because the grass is burned, and the top of it on that account would look lower. We used to go hunting there shooting ducks and geese and things of that kind and were often ashore.

Q. Do these islands get under in high tides?

A. At high tide I have seen the water over the ground there but not over the grass.

Cross-examination.

By Col. ZACHARIE:

Q. Mr. Ritch, when did you first commence fishing oysters?

A. Well I could not say exactly. Along about 1870.

Q. I believe you stated that you first commenced fishing oysters here to the eastward. Alabama?

A. Yes, sir, down in Alabama, in what is called Cedar point.

Q. Were not there in those days a good many oysters around Biloxi here?

A. Yes sir, I always in going down there fished a few here for our own use, but not to sell. I might have sold a few of them but not to amount to anything.

Q. That is before the canneries were established here?

A. Yes sir. Before any canneries were established anywhere in this neighborhood that I know anything about.

Q. Did not the fishermen of those days fish oysters around here and to the eastward all through the summer to supply the hotels and the boarding houses?

A. No sir the principal part of the oysters that supplied the people here during the summer and the hotels came from around the immediate neighborhood of Cat island. What are known as the Shell banks.

Q. Well in those days there were a few oystermen that went as far as that for them did they?

A. There were not as many oysters taken then as now. There were some parties came here from New Orleans and made it a business after the season closed to come here and run during the summer.

Q. How about here in these fisheries. Back bay and Cedar point and other points. They did not stop fishing oysters during the spawning season. They fished them during the summer did not they?

A. No sir, nothing but for the local trade.

Q. I am asking you about the season. They fished them during the summer?

A. During the summer for the local trade. There was scarcely no local trade then. As a consequence we would fish in a little skiff, 15 or 18 feet long and carry them to a party in Mobile who would sell them to the local dealers there.

Q. Well now as a rule when these fishermen gathered these oysters and they got a fair wind when they got a load, would not they cull

the oysters while they were under sail and when they got on the land?

1549 A. I don't know any thing about when they got on the land. There were a good many that carried oysters here but I did not see them. Some of them from over there I think went clear into the basin before they culled them.

Q. There was no law then in the State of Mississippi, nor was there any regulation of the board of supervisors in regard to the culling on the reefs?

A. I think not. If there was I knew nothing about it.

Q. If there was it was not enforced was it?

A. Not strictly. Certainly not.

Q. Now were not these marsh lands of which you have testified in your examination in chief almost universally called the Louisiana marshes?

A. Well I would not know how to answer you on that. I have heard them called both by different parties.

Q. Now is it not a fact that the most of the fishermen of the Creole and French descent call them the Grand marshes, or Great marsh, and the American fishermen call them the Louisiana marshes?

A. No sir, as a general thing they were called the Louisiana marshes by the Spanish and Italians running to New Orleans, but as a rule here up until I suppose eight or ten years ago they were called the Grand marshes. I know when I first commenced I never heard it called Louisiana marsh until after this talk come from New Orleans about the time this Dunbar started a factory down about the French market.

Q. You don't know when it was that Dunbar started his factory near the French market?

A. No sir, I do not. I know that he had it there for two or three years and moved it to Bayou bridge.

Q. Was it not more than twenty years ago?

A. Yes sir, I think it was. I think it was more. Yes sir, I think it was. I think it was more than twenty years ago.

Q. Now Mr. Ritch, is it not a fact that the Mississippi fishermen along this coast only commenced going to these marshes after oysters, that is a large number of them, after the oyster fisheries and reefs of this neighborhood had begun to play out, and the canneries were established thereby causing a great demand?

A. Well I commenced long before there were any factories anywhere.

Q. But now I am asking you about the generality of the fishermen, and a large number of vessels that have been in the habit recently of going there. Is it not a fact that a large number of fishermen along this coast went to these marshes only after these reefs in this neighborhood began to play out, and there became a great demand from these canneries?

A. No sir, I think not. I think after the factory originated they

began to go to the marshes directly. They did not bother with the reefs around here as the oysters were never as valuable.

Q. That is because the canneries created such a demand that these neighboring reefs were not able to supply them?

A. To a certain extent that was not the cause. They would not get the oysters as fast as they could get them out of the Grand marsh, and the consequence is that they went there because they got them faster.

Q. They could not get them in the quantities?

A. They did not require near the time.

1550 Q. Nor the quantity.

A. It was not necessary about the quantity, because you go back on the north side of Cat island and there were plenty of oysters there.

Q. Now you have testified about going through this marsh with a vessel drawing four and a half feet of water. What would have to be the condition of the tide for you to get through with a vessel of that draft?

A. It would depend upon where we wanted to go.

Q. Well I am now speaking of the route that you have spoken of?

A. If you were at Karako and wanted to go to Chimney bayou, and you would want to go through Three Mile bayou you would have to wait for the high tide.

Q. How much water is there as a general thing in low water?

A. I could not really answer. I would judge about three or three and a half feet. Through these marshes there are mud flats and that is where this shoal water is. Almost all of the marshes have mud flats.

Q. Would not you stick on these mud flats if you attempted to go through there in low water?

A. Yes sir, as a rule. Even in high water. That is because we don't keep in the channel. You get out of the channel if you don't keep a sounding pole.

Q. If you grounded you would have to heave your vessel off with a windlass?

A. As a rule we could do it better with the anchor. Pulling the anchor back.

Q. You would have to drag through the mud would not you?

A. Yes sir, that is on the shoal places in the bays. If you hit the tides of course there is water enough there to float a dozen vessels.

Q. You never heard anything about this 18 mile limit of Mississippi until very recently?

A. Oh I heard that before I quit oystering.

Q. When did you quit oystering?

A. It was about eight years ago. I suppose maybe it was 12 or 15 years since that first originated here. I heard so much talk of it that I do not know when I first heard it.

Q. You never examined the acts of Congress admitting these States did you?

A. No sir.

Q. And all that you have heard is rumor and talk?

A. Just the talk among the people.

Q. Do you know where the deep water channel lies to the north of the coast line of these marshes?

A. That is about where it went along there. Our boats were small and did not draw much water. We did not look for the channel directly. We went anywhere as long as we kept off of the keys.

Q. Now the vessels drawing more water than your vessel took this deep water channel did not they?

A. If they were this side of Cat island they did yes sir.

Q. How close to the Mississippi line did this channel approach the main land. Did it approach the mouth of East Pearl river do you know?

A. No sir, down there by Heron Bay point it is close. I don't think that it is over a half a mile or possibly not that far. It comes in off Pass Christian I would judge anywhere about ten or twelve miles.

Q. Do you know the islands that lie between the north coast of this marsh and the Mississippi land. Mississippi main land?

1551 A. Which do you mean.

Q. The islands. St. Joseph and Grand isle?

A. I never have been there nothing more than passed by them. I fished no oysters in that neighborhood at all.

Q. Do you know whether Half Moon island and Grassy island and Round island and St. Joseph lie south of this deep water channel?

A. Well I know that they lie south of it, but the distance I could not state.

Q. During the time that you have been engaged in travelling these waters have you noticed any change in these islands

A. No sir, I never have noticed any, but as I stated to you I have not been ashore there.

Q. I mean from observation?

A. No sir, I would not have noticed it if there had been.

Q. Is it not a fact that St. Joseph has disappeared and Round island has disappeared?

A. If it has it has since I quit boating.

Q. Now about the appearance to the entrance to these marshes. What change if any has taken place in the mouth of Three Mile bayou. Has not it widened very much?

A. I don't think that it has. Not while I was running there. They tell me that it is wider now than it was before the 1893 gale, but I have not been running down there to see.

Q. How is it in regard to the Jones or Johnson bayou?

A. I never went through Johnson bayou.

Q. How is it in regard to Nine Mile bayou?

A. Nine Mile bayou is the place where we go through in going to w Orleans. I have never seen any difference while I was run- g there.

Q. How is it in regard to Grand pass.

A. Grand pass has not widened any I don't think. If it has it ery little.

Q. Now how is it in regard to Creole gap?

A. The north mouth of Creole gap has widened a little since I t commenced running down there. Up to the time I quit.

Q. Did you state in your testimony in chief that you considered e marsh territory as being in Mississippi?

A. No sir, I did not. I told you that I did not know where it s.

Q. You did not know where it was. How far south did you fish?

A. As far as Martin island.

Q. Have you ever been in American bay?

A. No sir, not as far as American bay. I have been further down re but I don't know the names of the bayous.

Q. Have you ever been in California bay?

A. I never have been in California bay.

Q. Were you freighting oysters there?

A. I never freighted any at all.

Q. Have you ever been down in Quarantine bay?

A. No sir, if I did it was only on a cruise. I did not know the ne of it. Four or five or a half a dozen times I have been ing around looking.

Q. Now about the entrance to these different bays. I understood u to say that the mouth had been a good deal changed?

A. Creole gap at the north mouth. Not the south mouth.

Q. How about Three Mile bayou and Nine Mile bayou?

A. We never bothered about them at all. Unless you got on a bar there was plenty of water. Unless you got on a mud flat.

52 Q. Do you know whether the coast line there has been partially washed away?

A. No sir, nothing more possibly than some little point. A point y wash away and then it accumulates right near it. You could ice these little things by the points being there that is all. Where er there is a wash the sea is liable to cut off the point that way. ere it is very narrow.

Q. What was the year about when you first commenced fishing the marsh?

A. About 1870 or possibly 1871.

Q. Do you know what time these canneries were established here ng the coast?

A. I don't know what year.

Q. About. I did not ask you to be certain?

A. I judge that it was about 1886 or 1887 or some where in there. on't know the year though. I am not no ways certain about the ar. I did not pay much attention to it.

Redirect examination.

By Gen. McCLURG:

Q. You have been asked about this deep water channel Captain. Tell us whether you have any personal knowledge or information of any kind of that channel ever being the line dividing the State of Louisiana from the State of Mississippi?

A. Well I have heard that here recently. I suppose in the last eight or ten years, six or five years maybe. I would not say how long. I could say that it was since the time I quit running or about the time I quit running.

Q. That is not since this suit started is it?

A. It is since the controversy started. I won't say the suit. But since there has been so much talk about it. It has been since then.

Q. And before that time what did you know of it?

A. I suppose that it is 14 or 15 years ago that Alabama passed an oyster law prohibiting other boats from coming in there, and about that time there was talk about stopping the Alabama boats from coming here fishing, and then I heard that they claimed that they had 18 miles running due south.

Q. Was it then that you first heard that the Mississippi line run 18 miles from the shore south?

A. As I remember it.

Q. These places that we have been talking about, the Grand marsh, are within that 18 mile limit?

A. Well I have heard that they were. That is as far down as Brush island.

Q. You know how far the 18 miles is and you think it extends down about Brush island?

A. Yes sir, some where in that neighborhood.

1553 PETER ANGLADA, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McCLURG:

Q. How old are you sir?

A. 40 years old.

Q. Where do you live?

A. Biloxi.

Q. How long have you lived here?

A. All of my life.

Q. What is your business?

A. Boating.

Q. What sort of a boat?

A. Well I first run lumber to New Orleans and then I was in the oyster business after that.

Q. How long have you done boating between New Orleans and Biloxi?

A. Do you mean in the oyster business?
Q. In any business?
A. Since I was a boy ten years old.
Q. You know the water pretty well between New Orleans and loxi?
A. Yes sir.
Q. When did you first go in the oyster business?
A. About 13 years ago.
Q. Are you still in that business?
A. Yes sir.
Q. Where have you been taking oysters in the last 13 years?
A. We have been taking them in the Grand banks, and then we ve been taking them in the Grand marsh out here.
A. Through Three Mile bayou and southward as far as American y in places.
Q. How did you go?
A. Down through the marsh.
Q. In what sort of a boat were you?
A. In a boat drawing four feet of water loaded.
Q. Down through Three Mile bayou in a loaded boat?
A. Going through there you would have to take the tide, and I ould load it to about three and a half feet.
Q. That is in what part of the Grand marsh that you fished sters?
A. Well I fished in Indian Mound and Drum bay and Creole gap nd Grand pass and all of them.
Q. What State were you in when you were fishing there. Louisi-na or Mississippi?
A. Well as far out as the west part of Drum bay I thought that I as in Mississippi all of the time.
Q. Why did you think you were in Mississippi?
A. My old father told me that the dividing line was Pearl river nd that it run 18 miles south, so I always thought that.
Q. Is your father living?
A. No sir.
Q. When did he die?
A. 12 years ago.
Q. How old was he when he died?
A. 63.
Q. How long did he live here?
A. He had been in this country since he was a boy 15 years old.
Q. So that he had been here nearly fifty years before had he?
554 A. Yes sir.
Q. Did he live here at Biloxi?
A. Yes sir.
Q. State whether or not you have noticed any change of any kind n the width of these bayous since you first went in there?

A. Mighty little from what I can see. There is mighty little change any where.

Q. Have you noticed any changes in the islands. Where there has been any subsidence?

A. No sir, not much at all.

Q. You know where Grand pass is?

A. Yes sir.

Q. Creole gap?

A. Yes sir.

Q. Nine Mile bayou?

A. Yes sir.

Q. Three Mile bayou?

A. Yes sir.

Q. Johnson bayou?

A. Yes sir.

Q. And all of these places?

A. Yes sir.

Q. You have noticed no material changes there?

A. No sir, what ever there is you can not see it at all.

Q. Have you ever been out on these grounds?

A. Yes sir, often.

Q. Did you ever find any musk rats in this country?

A. No sir.

Q. Do these islands at Grand marsh go under at high tide?

A. It has got to be a mighty high tide for them to go under.

Q. What have they called these marshes since you have known them?

A. Well as far as I have known them they have always called them Mississippi.

Q. The Mississippi marshes?

A. Yes sir, Grand marsh generally, but they always claimed that they were in Mississippi when I come there.

Q. Did you ever hear it called the Louisiana marsh?

A. Just since this last law started.

Q. Have you paid any license?

A. The last two years?

Q. Have you paid any license to Louisiana in the last two years?

A. No sir.

Q. To Mississippi?

A. Yes sir.

Q. It is just the last two years that you have been taxed?

A. Yes sir, that is all.

Q. Have many Mississippi boats been going down there to your knowledge?

A. Yes sir, there have been a good many going in there.

Q. Since the building of the canneries the fishermen have increased in numbers?

A. Yes sir, the most of the small boats go in there yes sir.

Q. Do you know of any offenses or crimes being committed down here?

A. No sir.

Q. Were you fishing in there when Kennedy was drowned?

A. No sir.

555 Q. That is before you began?

A. Yes sir.

Cross-examination.

By Col. ZACHARIE:

Q. When did you first commence fishing in this marsh?

A. 12 or 13 or 14 years ago. I suppose. Something like that.

Q. Well now is it not a fact that at that time a large majority of the fishermen that fished in that territory called it the Louisiana marshes and regarded it as a part of the parish of St. Bernard?

A. I don't know, but as far as I went we used to claim——

Q. I am not speaking about what you used to claim. I am speaking about what this territory was called. Did not you call it the Louisiana marshes?

A. No sir, we always called it the Grand marsh.

Q. You said that you called it the Mississippi marsh did not you?

A. We called it the Mississippi marsh as far as that went. The Mississippi shore.

Q. You say that you learned this from your father about the 18 mile limit?

A. Yes sir.

Q. When did you learn this from your father?

A. When I was a boy running on schooners with him.

Q. How did your father come to speak to you about it?

A. Just like a father will speak to any other child.

Q. How did you come to get on this particular topic?

A. When we would get there he would say "Now we are in Mississippi." We would get to Pearl river and he would say "We are on Mississippi ground again."

Q. Did he say anything to you about it extending 18 miles south?

A. Yes sir.

Q. Well now is it not a fact that there has never been any talk or discussion about the 18 mile limit of Mississippi until recently. Since this controversy arose?

A. No sir, he is the only one that told us about that. I never heard any more since.

Q. He was very particular in telling you that the Mississippi boundary extended 18 miles to the south?

A. That is what he always told us that he heard.

Q. You spoke about taking out a license for fishing?

A. Yes sir.

Q. From whom did you get this license?

A. I got them here in Gulfport.

Q. Did you ever take out any license from the Louisiana authorities?

A. No sir. I never have.

Q. When did you take out a license from the authorities in Mississippi?

A. Last year before this year.

Q. When did you first commence to fish in this marsh?

A. About 12 or 13 years ago.

Q. Have you taken the trouble to pay any attention par-
1556 ticularly to the widening of the mouths of any of these bayous?

A. Well if they are widening it is so little that you can not tell it.

Q. How is it about Creole gap. Has there been any widening there?

A. What widening there is is so little that you can not hardly notice it. It looks like it is about the same thing.

Q. Is it not a fact that you never paid any particular notice. That all that was concerning you was whether or not you could get through there in a boat?

A. You can not help but notice if you are beating up and down there all day long. You are bound to notice.

Q. How about Grand pass. Has it widened any?

A. Yes sir, at the mouth it is widening a little yes sir.

Q. Is it not a fact that it has nearly doubled in width in the last twenty years. Fifteen or twenty years?

A. Well I could not answer you that. I was not running there 15 or 20 years ago.

Q. Is it not a fact that there have been great changes along this coast largely caused by the storm of 1893?

A. Well no sir, not so much.

Q. But there have been some changes?

A. Yes sir, but some were so little that you could hardly notice them.

Q. How about the deepening of the mouths there. Has there been any?

A. No sir, none that I could see.

Q. Did you ever sound to ascertain whether that is true or not?

A. You don't need to sound much. The boat will sound for you.

Q. You always had plenty of water in going through there?

A. Not all of the time. Different places you would get into it.

Q. Going into any of these passes what would the depth of the water generally be. How about Three Mile bayou?

A. Three Mile bayou has plenty of water at the mouth as you go in there.

Q. Was there plenty of water there when you first went there?

A. Yes sir, and there is plenty of water now.

Q. How about Nine Mile bayou?

A. There is plenty of water there too.
Q. I am speaking of at the time that you went in there?
A. There is a right smart of water at the north mouth, but at the south mouth there is not so much.
Q. How about Johnsons bayou?
A. I never have been through there.
Q. How about Turkey bayou?
A. I suppose there was 12 or 14 feet in there.
Q. When you first went in there?
A. Yes sir.
Q. How about Creole gap?
A. When I first went in there there was about three or three and a half feet of water.
Q. What is there now?
A. There is about the same now I suppose.
Q. How about Grand pass?
A. Grand pass has plenty of water at the north mouth but not so much at the south mouth.
Q. Has there been always the same kind of water there since you first knew it?
1557 A. Yes sir.
Q. How about the widening of Creole gap. Has it widened much?
A. No sir, it is about the same thing.
Q. How about the widening of Grand pass?
A. Only at the north mouth it is opened up a little wider.
Q. How much wider do you suppose?
A. It is so little that you could not hardly tell.
Q. How far to the southward have you fished?
A. As far as American bay.
Q. Have you fished at Martin island?
A. No sir, not oysters.
Q. Have you fished in Quarantine bay?
A. No sir.
Q. Well you have regarded American bay as within the 18 mile limit?
A. No sir.
Q. How far do you consider that the 18 mile limit of Mississippi extends?
A. To the west of Drum bay.
Q. I have forgotten, but did you testify that you had passed through these marshes in a boat?
A. Yes sir.
Q. Which way. Going from north to south or from south to north?
A. Either way.
Q. What does your boat draw?
A. Light two and a half feet. Loaded four feet.

Q. Did you experience any difficulty in going through there. Did you run on any mud flats?

A. You can not help but run on the mud flats.

Q. How was the tide when you went through there?

A. You can not go through there at all with a low tide.

Q. Then you have to go through there with a high tide?

A. Yes sir.

Q. Well then in going through with a high tide don't you run from time to time on mud flats?

A. Yes sir, you can not help running on them. You have to run on them.

Q. How do you manage when you get on them?

A. You have to wait for the tide to get you off.

Q. Do not you at times heave her off *a* with a windlass and a rope?

A. No sir, but a good many times we would lighten our boat up.

Q. Well you had to force her through these mud flats did not you?

A. Yes sir.

Q. Do you know where the deep water channel is lying close to the Mississippi coast to the northwards of this territory?

A. What they call the Cat Island channel?

Q. Yes sir?

A. Yes sir, pretty well I suppose.

Q. That is the channel that vessels of deeper draft follow?

A. Yes sir.

Q. How close to the Mississippi main land does this channel run as you approach the mouth of East Pearl river?

A. I suppose at the mouth of East Pearl river that you can go in about a mile from there.

Q. Do you know the islands known as the St. Joseph and Grassy and Half Moon and Round islands?

A. Yes sir.

1558 Q. How does this deep water channel run in regard to these islands. North or south of them?

A. It passes to the north of them all but St. Joseph.

Q. Do you know what changes have taken place in recent years in St. Joseph island?

A. That has been washed down a little.

Q. Has it not disappeared?

A. There was a little lump of marsh there about the size of this building, but it is gone now.

Q. How about Round island?

A. That is washed away and left a lump of shells there?

Q. Can this lump of shells be seen at any time except in low water?

A. In ordinary tide you can see it yes sir.

Q. How about Half Moon island?

A. There is no change at all there that I can see.

Q. None of it has been washed away?
A. No sir, none that I can see.
Q. Did you ever go ashore on these islands to make any observations?
A. Yes sir, I have been ashore often.
Q. Now is it not a fact that since this suit has been instituted that you fishermen have gotten together and agreed on this subject of calling this marsh the Grand marsh and Mississippi marsh?
A. Well no sir, I don't think we have. We always did call it the Grand marsh. Just those Dagoes and Cicilians from New Orleans called it the Louisiana marsh.
Q. Now is it not a fact that ten or twelve years ago if you would come along here and ask these people, who are supplying these canneries, or where did you get these oysters from, they would invariably reply that they got them from the Louisiana marshes?
A. No sir, not I. We always called them the Grand marshes.
Q. Suppose I would tell you that I have asked the question over and over again and had only gotten that reply, would you say that I was mistaken?
A. Yes sir, I believe you would be, because if you were to send me to Louisiana I would go out to the southward.
Q. Are you still engaged in the oyster trade?
A. Yes sir.
Q. To whom do you supply oysters?
A. To the factory and to the raw oyster dealers.
Q. What is the bulk of your trade?
A. The bulk of my trade is raw oysters.
Q. You supply a very large quantity of these canneries and factories don't you?
A. Yes sir, at times.
Q. Well you feel a peculiar interest in having this territory declared to be Mississippi territory don't you?
A. Well no more than what it is.
Q. If it was declared to be Louisiana territory you would be shut out from getting oysters?
A. No sir, not at all.
Q. Why?
A. Because I could get them elsewhere. Where we are getting them now.
1559 Q. Where have you been getting them?
A. All around St. Joseph and other places.
Q. Are there many oysters down around St. Joseph and those islands?
A. I have worked there all of the winter.
Q. Why did you care to go to the marshes?
A. I did not care about it. I could have taken to Louisiana and gone there if I had wanted to.
Q. It is a fact that you have not been fishing in the marshes recently?

A. No sir, not for the last two years.
Q. How did you happen to be summoned here as a witness?
A. I don't know sir. I was at supper last night when they summoned me.
Q. Were you told what you were wanted for. To testify to?
A. No sir, I did not know anything about it at all.
Q. Nobody has been talking to you about this being Grand marsh?
A. No sir.
Q. Then your belief and opinion is that if the fishermen were shut out from fishing in these marshes it would have no effect on the supply for the canneries?
A. No sir, I reckon not.
Q. You could get just as many oysters elsewhere as you are getting from Grand marsh?
A. Yes sir.

Redirect examination.

By Gen. McCLURG:

Q. You were asked by counsel for Louisiana whether the fishermen and oystermen had not gotten together since this suit and agreed to call that the Grand marsh, and you were also asked whether you had not been groomed in this case?
A. Yes sir.
Q. Do you know of any instance where any of the witnesses on the part of the State of Mississippi has been instructed and told what to testify to?
A. No sir.
Q. You have no knowledge of any thing of that sort?
A. No sir.
Q. If you hear of any thing of that sort I wish you would please let us know?
A. If I was told to I would not be bought in so easy.

CLEMENT COX, a witness on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Mr. McCLURG:

Q. How old are you Mr. Cox?
A. 57.
Q. Where do you live?
A. Biloxi.
Q. How long have you live there?
A. I have lived there since 1881.
Q. What is your present occupation?
1560 A. Oystering.
Q. How long have you been in that business?
A. Ever since I have been here. Since 1881.

Q. Where have you been getting your oysters?
A. Out here in Cat island and in different places in the marsh.
Q. What places in the marsh?
A. Well I have fished from American harbour, and I have fished a little to the southward of Kaliko bay.
Q. Are those places south of Drum bay?
A. Yes sir.
Q. Have you fished any in Drum bay?
A. Yes sir.
Q. What is that bay. Kaliko bay?
A. Foggy bay is the English of it. That is the English name.
Q. You have fished in Drum bay?
A. Yes sir.
Q. And the Karakos?
A. Yes sir.
Q. Are you familiar with Grand pass?
A. Yes sir.
Q. And the island called Isle à Pitre?
A. Yes sir.
Q. Do you know about Turkey bayou?
A. Yes sir.
Q. And Johnson bayou?
A. Yes sir.
Q. And Three Mile and Nine Mile bayou?
A. Yes sir. I never fished in these bayous but Turkey bayou, but I know all of these places.
Q. Have you ever gone through them?
A. No sir, I never went through them. I only went to the mouths of them.
Q. When did you first go into the mouths of these bayous?
A. I could not hardly tell, it has been so long, I was cruising along this coast. Not more than 15 or 18 years ago.
Q. When did you last enter along these bayous. Between Nine Mile bayou and Crane Town bayou?
A. I was down there this winter. That is through Three Mile bayou and the Karakoes.
Q. Have you ever noticed any material change in these bayous since you first went there and if so I wish you would please tell us what it is?
A. None in particular. Some of the points are washed a little, but I don't know any difference in the channels.
Q. Have you noticed any material change in that part of the Grand marsh where you have been fishing?
A. No sir.
Q. Have you noticed the sinking of any hills or the lowering of any hills?
A. No sir, unless it was a place cut off from a point and washed away. That is all.

Q. Where is the line as you understand it. The boundary line that divides the States of Louisiana and Mississippi?

A. It is Pearl river I have always heard.

Q. Do you know what the water line of Mississippi is. How far it extends to the southward from Pearl river?

1561 A. 18 miles I believe due south from Pearl river.

Q. How long have you understood that to be the line Captain?

A. About 12 years ago. This talk came up about Louisiana and Mississippi and this controversy, and there was some talk of Louisiana passing a law to cut us off there. I said then that it did not hurt us any.

Q. I believe that the line between Mississippi and Alabama now gets Petit Bois island in it?

A. Yes sir.

Q. It extends 18 miles out from the shore?

A. Yes sir.

Q. From the mouth of the river?

A. It goes down here to the Grand Matua island. East Grand bay is in Alabama and West Grand bay is in Mississippi.

Q. How far is that from the shore. That is between Petit Bois and the shore is it?

A. Yes sir, it is between Petit Bois and the shore. It is a low island, and I guess that it is about seven miles or some where along there.

Q. Can you say whether Isle à Pitre and Grand pass and the mouth of Johnson and Turkey and Three and Nine Mile bayous. Whether they are within the 18 miles of the Mississippi shore?

A. Yes sir.

Q. I believe you stated you know where Karako bay was?

A. Yes sir.

Q. And that is within 18 miles of the Mississippi shore?

A. As near as I could judge they ought to be.

Q. Do you know where Brush island is?

A. Yes sir.

Q. How — is it. How far is it from the Mississippi shore?

A. I don't think that it is over 18 miles.

Q. About how far is Drum bay?

A. It is about the same. It is very near in the line. I don't think that it is much over it.

Q. Do you know where Indian Mound bay is?

A. Yes sir.

Q. What distance is it from there to the mouth of Pearl river?

A. It is very near in the line as near as I can judge.

Cross-examination.

By Col. ZACHARIE:

Q. I think you stated you just came to Biloxi in 1881 to engage in the oyster fishery?

A. Yes sir.

Q. Do you remember what time these canneries were established here?

A. I think in 1881. The first I think at Back bay and then this one of Lopez in 1884.

Q. When you commenced oystering to whom were you delivering your oysters?

A. To Lopez and Elmer and Ducate and Macot.

Q. Those are all canneries here?

A. Yes sir.

Q. You have since that been taking your oysters to these different canneries?

A. Yes sir, first one and then the other.

Q. You are still delivering the oysters to them?

1562 A. Yes sir.

Q. I think you said when you spoke of the mouths of these different bayous and the passes going into this Grand marsh, that you had never gone through them into the interior of the marsh?

A. Yes sir, Three Mile bayou and Nine Mile bayous I went through them. I was through that this winter.

Q. How far did you go?

A. I did not go any further than Karako bay this winter. I worked up to the marsh until Christmas.

Q. You went to Karako through Three Mile bayou?

A. Yes sir.

Q. How far to the southward did you go past Nine Mile bayou?

A. You mean going right on through?

Q. How far did you go?

A. This winter?

Q. At any time?

A. I have been down to Pointe à la Hache.

Q. How far did you fish to the south at any time. The most southward point?

A. To run any length of time Kaliko bay.

Q. Did you ever fish in American bay?

A. No sir.

Q. Did you ever fish in Quarantine bay?

A. No sir.

Q. Did you ever take out a license from either Louisiana or Mississippi to fish?

A. Yes sir.

Q. From what authorities and what State?

A. For the last two years from Louisiana.

Q. From Louisiana?

A. Yes sir, about ten years ago, I guess that it was some where about eight or ten, I am not sure, I had to take out a license from Mississippi.

Q. Why did you take out the license from Louisiana?

A. Why they compelled us to do it.

Q. Because as they claimed you were going to fish in Louisiana waters. Is that the reason?

A. Yes sir, they claimed it, but we were never bothered before that. I worked in the marsh all of the time but I was never bothered up to the last two years.

Q. You never heard the boundary line discusses in any way, did you, prior to the time that this controversy arose?

A. Yes sir, when this Alabama controversy come up.

Q. About what year was this?

A. That was about ten or twelve years ago I think.

Q. Now is it not a fact that this marsh territory that we have been speaking of had been generally known as and called the Louisiana marshes?

A. Some call it one thing and some another.

Q. I am talking of the fishermen generally there?

A. I have heard as many call it Grand marsh as I did any thing else.

Q. There are a considerable number that call it Louisiana marsh?

A. It is the same thing about the boundary. Louisiana claims one thing and Mississippi another. Some claim this is Grand marsh and some claim it is Louisiana marsh.

Q. Is it not a fact that a large number of the Mississippi fishermen have called this territory the Louisiana marshes?

A. Well they might call it that way.

Q. I am not asking you what they might call it. I am asking you the fact. Have not they called it that way?

1563 A. I have heard as many call it Grand marsh.

Q. Just as many called it Louisiana marsh as called it Grand marsh?

A. As near as I can recollect.

Q. You have never consulted the acts admitting the State of Mississippi and the State of Louisiana as to the location of the boundary?

A. No sir.

Q. You have never examined any of the records of the U. S. land office in this territory?

A. No sir.

Q. You have merely heard the talk going about between the fishermen. Is that the extent of your knowledge?

A. Yes sir, that is all.

Q. Now in regard to the changes in this territory. Have you paid any particular attention to any of the changes if there have been any since the great storm in 1893?

A. No sir, maybe some of the points are washed away a little.

Q. Have you ever noticed whether the openings and the mouths and so on of these different bayous have widened?

A. Well if it has it has been a mighty little. I don't see any difference in them.

Q. Now say taking Creole gap. Has there been any change there?

A. That is about the same.

Q. Have you ever noticed any difference in the depth of the water in any of these passes or mouths?

A. Right in the mouths. Of course what they call the gap there has been plenty of water, but as soon as you get over that and get into the bay there is no difference at all.

Q. Now in going from the north to the south side of this territory, in what depth of vessels have you gone through here?

A. Well loaded it is about three and a half feet.

Q. What has been the condition in the tides when you would pass through there. Has it been in high water or low water?

A. Yes sir, you have to have a high tide.

Q. And in going through there even at high tide. Did not you then run upon shallow mud flats?

A. You have to be mighty particular if you do not.

Q. Don't you very often find yourself aground on these mud flats?

A. Yes sir.

Q. And is it not necessary for you to heave your vessel off through the mud and force it through the mud and drag her through the mud?

A. Yes sir.

Q. Have you ever fished in the neighborhood of Martin island?

A. Yes sir, but there are no oysters there now. There used to be some there.

Q. Do you consider that within the 18 mile limit?

A. Yes sir, that ought to take that in.

Q. Do you know where the deep water channel is in the territory between the north side of these marshes and the Mississippi main land?

A. Yes sir.

Q. As you approach the mouth of East Pearl river how close does *does* this deep water channel run to the Mississippi shore?

A. Well in Heron bay there and St. Joseph I don't think that it is over a quarter. Maybe it is a little more. Between a quarter and a half.

Q. Do you know where St. Joseph island is?

A. Yes sir.

Q. Do you know Grassy island?

1564 A. Yes sir.

Q. Half Moon island?

A. Yes sir.

Q. Round island?

A. Yes sir.

Q. What change if any has taken place in regard to St. Joseph island?

A. St. Joseph island has washed.

Q. Washed entirely away?

A. Well at common tide you can see the lump.

Q. How about Round island?

A. It is washed. There is a little shoal keys there: You can see it in an ordinary tide there.

Q. In regard to Half Moon and Grassy island- what change if any has taken place?

A. I cannot see that there is any there.

Q. Have you been ashore on these islands?

A. Yes sir.

Q. Have you paid any attention to any changes?

A. I could not see that there were any changes at all.

Q. Now the shore line along the north shore of these marshes. Is not the shore line washed away in a good many places?

A. Well it may have washed away a little but it is not very much. I cannot see that it has washed away so much.

Q. In regard to this deep water channel. It runs from the mouth of East Pearl river does not it to the eastward, until it passes the Marianne island and then branches off to the south east does not it towards Cat island?

A. Yes sir.

Q. Do you know the Marianne islands?

A. Well there is no island there. It is just a reef.

Q. Were not there islands there when you first commenced?

A. The shoal keys were there. They were out of the water.

Q. What is there now?

A. There is Pelican and Red Fish keys. They are out of the water all of the time unless it is a storm tide.

Q. A storm flood you mean?

A. Yes sir, and it floods all of this around here.

The commission here took a recess until two o'clock.

At two o'clock the commission resumed its hearing of the testimony as follows:—

WILMER MATHIEU, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

Q. How old are you Mr. Mathieu?

A. I am 43.

Q. Where do you live?

A. I live here in Biloxi.

Q. How long have you been living here?

A. I have been living here since 1878.

Q. What has been your occupation since 1878?
A. Oystering principally.
Q. Where have you been engaged in the oyster business?
A. In the Grand marsh and out in the sound.
Q. Are you familiar with the waters between here and Pearl river?
A. Yes sir.
Q. And with the Grand marsh?
A. Yes sir.
Q. Tell us please sir the different places in the Grand marsh
t you are familiar with and have visited?
A. Creole gap and Grand pass and Three Mile bayou, Bayou
ndreaux and Cranetown, and Martin island and American harbor.
you want me to name them clear on down to the Mississippi
er?
Q. No sir?
A. I can name them all down to the river if you want me.
Q. Were you ever in Drum bay?
A. Yes sir.
Q. Well now about how far is it from Drum bay to the Missis-
pi shore on a due north line?
A. Well I could not say exactly, but about 18 or 20 miles to go
a due north line.
Q. Then you were in that part of Grand marsh north of Drum
y, and there about Southwest pass. In what State were you then.
uisiana or Mississippi?
A. I thought that I was in Mississippi.
Q. Why did you think that you were in Mississippi?
A. Well because I considered the line and I have always heard
at the line — 18 miles south.
Q. South of what?
A. Of Pearl river.
Q. You know where Pearl river empties into Lake Borgne do
u?
A. Yes sir.
Q. Have you ever been through Nine Mile bayou?
A. Yes sir.
Q. Three Mile bayou?
A. Yes sir.
Q. Johnsons bayou?
A. Yes sir.
Q. Turkey bayou?
A. Yes sir.
Q. Grand pass?
A. Yes sir.
Q. Creole gap?
A. Yes sir.
Q. And down through these waters that you have spoken of
while ago?
A. Yes sir.

Q. What sort of a boat have you been down there in?

A. Well I have been on different kinds. I have been on some drawing as high as five and a half feet loaded and on some two and a half feet loaded.

Q. Were you ever disturbed by Louisianans or any one else while you were in there?

A. No sir.

Q. You brought your oysters out of there to what point?

A. Biloxi. Scranton and Mobile.

Q. How long have you been doing that?

A. 22 or 25 years, except this last year or two that this law come up prohibiting us from going in there.

Q. Have you noticed any material changes in the widths of any of these bayous that I mentioned awhile ago since you have been going in there?

A. Three Mile bayou has cut a little but in the others I don't see any difference.

1566 Q. Tell us whether or not there has been any change in the general configuration of these islands between the time you first saw them and the last time you saw them?

A. Well there is one island on the outside that they call Sundown that is cut into. Some body cut it with a spade I think, in the narrow portion and widened it out. They made two islands instead of one there. There is no other change that I can see except that has been cut out with a spade in order to get into the bay or some thing instead of going around, and then when the current comes through there it will open it wider.

Q. That is the case with Creole gap is not it?

A. They claim that that was cut with a spade.

Q. Have you ever been out of the water on the top of any of these islands there in the last twenty-three years?

A. Yes sir, lots of times.

Q. Mention some of them?

A. I have been on Martin island and Brush island, and Mitchell island and Sam Holmes island, and Mud Grass island and Raccoon island.

Q. Do I understand you to mean that you have been on them at different times in the last 23 years?

A. Yes sir.

Q. Have you ever seen any musk rats on them?

A. Yes sir, plenty of them. I have seen great big rats. I don't know whether they were musk rats or not.

Q. Where did you see them?

A. On the shore. In the drift in the marshes.

Q. In what portions of these islands did you see them?

A. About 15 or 20 feet from the water, where the stuff drifts up there and makes a pile of rubbish there from these overflows. That is where I have seen them.

Q. Where you have seen these rats have you observed any ma-

rial change in the shore line different from any other portions of
e marsh?
A. No sir.
Q. Now you state that you had been in there with boats that would
raw about five feet of water loaded?
A. Yes sir, five and a half feet.
Q. Tell me what places you could travel in the marsh in a boat
rawing five feet of water?
A. Well we ran out of Moran harbor. There is a channel that
omes up there with not over nine or ten feet of water in it, and I
ould go up there and load and come out again.
Q. How about Grand pass?
A. Yes sir, you can go in there drawing any amount of water.
Q. How about Nine Mile bayou?
A. There is plenty of water in there.
Q. That is about the deepest one of these bayous is it?
A. Yes sir, Three Mile is about the deepest.
Q. 23 years ago could you go from Brush island and Door point
p into the Grand Marsh and come out of Three Mile bayou?
A. Yes sir.
Q. In your boat?
A. Yes sir certainly.
Q. Could you go up there and come out of Nine Mile bayou?
A. Yes sir, any of these points.
Q. Was there much traveling through this route by boatmen?
A. Yes sir.
Q. How much draft could you take up through this route?
567 A. Well if you were drawing four feet of water you had to be governed by the tide. If it was in low tide you had to stop n some places or you would go aground, and when the tide rose ou could go on across the mud flats. You could draw four or four nd a half feet.
Q. So that at certain times of the tide you could make these trips hrough there?
A. Yes sir.
Q. Were you ever down in Treasure bay. Bayou Tresor?
A. Yes sir.
Q. You say that that is within 18 miles of the Mississippi?
A. Yes sir, it is inside of Mississippi.
Q. You have seen St. Joseph and Brush islands there near Pearl river?
A. Yes sir.
Q. Some of them have been washed have not they?
A. Yes sir, some of them.
Q. Have you ever been required to take out a license there from Mississippi or Louisiana to fish in there?
A. I never did take out any no sir.

Cross-examination.

By Col. ZACHARIE:

Q. You said that you had been in the oyster business for about 23 years?

A. Yes sir.

Q. Is it not a fact that these marshes of which you have spoken are generally known as the Louisiana marshes?

A. No sir, Grand marsh is what we always called it.

Q. You did, but I am asking you as a general thing among the fishermen. Have not they been known as the Louisiana marshes, and have you not heard them called that often?

A. I have heard them called the Louisiana marshes.

Q. Since when have you known them to be called the Grand marshes?

A. Ever since I have been going out there we called them the Grand marshes.

Q. You say that you have always heard of the Mississippi line or limit as extending 18 miles south. When did you hear that?

A. Time and again I have heard that it ran out there. We would inquire of different people that I thought knew more than I did myself, as to how far the line of Mississippi run and they would say it run 18 miles south and then turned up east.

Q. What was your reason for inquiring that?

A. I did not have any particular reason. I just wanted to see where it was out of curiosity.

Q. You have never examined the acts of Congress have you in regard to the boundaries of the two States?

A. No sir.

Q. Then you know nothing about this boundary question except what you have heard by rumor and general talk?

A. That is all.

Q. Now is it not a matter of fact that that question has only been discussed for the last few years by the fishermen?

A. About the boundary line.

Q. Yes?

1568 A. Yes sir, it has been discussed among them about the boundary line, but they would always talk it among one another that the line of Mississippi run 18 miles south, and they would consider how far out they were and whether they were in Louisiana or Mississippi.

Q. Have you ever noticed what changes have been produced in this shore line and the mouths of these different bayous since the storm of 1893?

A. Three Mile bayou has been considerably. The mouth of Three Mile bayou.

Q. How is it with Creole gap? Has that not been enlarged to a considerable extent?

A. I have not seen any change.

Q. How is it with Grand pass?
A. I don't think Grand pass is either.
Q. You have spoken of a channel having been cut through Sun Down island with a spade. How long is that channel?
A. It is not a channel. It was cut through the island.
Q. Whatever you may call it. How far is it through there?
A. Well it is about, I suppose that it is 75 yards now.
Q. How long is it from side to side?
A. Well it is this way, just like two doors on each side and a little hole in the middle.
Q. It is through a neck there is it?
A. Yes sir.
Q. From one side of the island to the other how long is this neck?
A. It is 75 yards I think now.
Q. How do you know that it was cut with a spade?
A. I never saw the people cut it. I was told that it was cut with a spade. I have been around the island.
Q. Could that not have been cut with a big storm?
A. No sir, it was not cut in the big storm because I was out there afterwards. We go constantly around this island and I am very familiar with it. If there had been any change in it we would have noticed it right away.
Q. You spoke of the musk rats. You have seen a great many muskrats in that country?
A. I have seen rats, I don't know what kind they are.
Q. Do they not burrow in the ground?
A. They go under this drift.
Q. Don't they have entrances there so that they fish under water and go underground?
A. I don't know that.
Q. You have been over this territory on foot have not you?
A. Oh yes sir.
Q. You have gotten into these muskrat holes and had your feet to give away under you?
A. No sir, only in soft places. There are boggy places in the marshes. I never fell in no holes.
Q. About what did you say that these vessels drew that you went through the marshes with?
A. I used to be engaged in the trapping business and we would use a light draft vessel to go through there with because we would go through from one side to the other.
Q. About what draft would these vessels have?
A. About two feet.
Q. Could you go through over these mud flats in a vessel of this kind at low tide?
1569 A. No sir.
Q. If you did you would stick on the mud flats?
A. Yes sir.

Q. It was only in the highest tides that you could go through with vessels drawing four feet and over?

A. Yes sir, it would take a high tide. There would be some places that you could go and some you could not go.

Q. Did you ever notice at the mouths of any of these bayous whether it was deepening or not?

A. Well I did not notice.

Q. You never have sounded it?

A. No sir.

Q. I believe you stated that you knew these islands lying between the north coast of these marshes and the Mississippi main land?

A. Yes sir.

Q. Do you know St. Joseph island?

A. Yes sir.

Q. Do you know Half Moon and Grassy islands?

A. Yes sir.

Q. Do you know Round island?

A. Yes sir.

Q. What changes have taken place in St. Josephs island since you have known it?

A. I don't know any particular changes.

Q. Is it not a fact that St Joseph island has been washed away and the light house there since you have known it?

A. The old light house you mean?

Q. Yes sir.

A. Well if it has it has washed away since I last saw it.

Q. Is it not a fact that Round island has disappeared entirely?

A. Not to my knowledge it has not. I have not been there in a couple or three years.

Q. Is it not a fact that Half Moon is almost washed away?

A. Yes sir, it is washed some.

Q. To a considerable extent is it not?

A. Yes sir, it is washed.

Q. Do you know where the deep water channel is that is used by large vessels drawing considerable water?

A. Yes sir.

Q. Does not that channel run from the mouth of East Pearl river close to the Mississippi shore and to the northwards of these islands?

A. It does not run close to the shore.

Q. How far do you think it is from the deep water channel to the main land of Mississippi?

A. From what point?

Q. After you leave the mouth of East Pearl river going to the east?

—. ——.

Q. As much as that?

A. Yes sir.

Q. I mean near the mouth of East Pearl river going along just north of these islands?

A. It runs right close to the island there where it comes out of the river.

Q. I am speaking of how close to the main land of Mississippi. Is it or is it not a fact that it runs within a quarter or a half a mile of the main land there?

A. I don't know whether it does or not there. Coming through there *there* on large vessels they would stick right to the channel. When we went to St. Joseph we were right close to the channel.

1570 By Gen. McCLURG:

Q. How far were you then from the Mississippi shore. The main land?

A. I could not say how far.

Q. At St. Joseph or about St. Joseph?

A. I could not say how far it was. It looked like it was about a couple of miles from the main land.

By Col. ZACHARIE:

Q. Are you very sure that there have been no changes in 23 years in the coast line of these marshes?

A. Well the changes are in these cuts.

Q. Is that all the change. Is the coast not gradually wearing away. The waves undermining the soil and the crust dropping in?

A. Not that I can see.

Q. Do not you find along this coast that pieces of crust rolled up into balls, and places on the shore where it has undermined this crust?

A. Some times you see little pieces of dirt drifting along there that is washed off yes sir.

Q. What is your business now?

A. Oystering.

Q. To whom do you deliver these oysters. Are not you supplying these canneries and factories here?

A. Yes sir.

Q. That is your principal and main business?

A. Yes sir.

Q. You are dependant upon that for a livelihood are you not?

A. Yes sir.

Q. You have only engaged in this oyster business since these canneries were established?

A. No sir, before.

Q. What year was it that you commenced oystering?

A. Around 1878.

Q. Around 1878?

A. Yes sir, 1878, or 1879 or some where along there.

Q. You stated that you had been in the oyster business for 23 years?

A. About 23.

Q. If you commenced in 1878 it would be 26 or 27 years?

A. In 1878 was my first experience in the oyster business. I would cruise around on a boat and make two or three trips and quit then.

Q. You were not in the business?

A. No sir.

Q. You would go out with others?

A. I was working and they would give me some thing. I was young then.

Q. To whom did you sell your oysters?

A. To Mr. Fillmore and Mr. Desports and Mr. Elmer.

Q. That is they had places here for raw oysters?

A. Yes sir.

Q. Did you go out in the summer time?

A. Not for oysters. We would go out for bird eggs.

Q. You did not fish for oysters in the summer time?

A. No sir, I have not fished outside of a little for planting purposes in the summer time.

1571 Q. Is it not a fact that as a rule along this coast oysters were fished all through the summer during the spawning season. Were not all of these hotels and boarding houses and oyster shops etc., supplied with oysters all during the summer time?

A. Yes sir.

Q. Is it not a fact that these oystermen when they would get a load of oysters and a fair wind home, that they would not stop to cull on the banks but they would cull as they went along, or cull after they got home on the land?

A. No sir, they always stayed there and culled them. As far as I know they did.

Q. You had no law or regulation of the board of supervisors at that time of which you speak in regard to culling and fishing in the summer time?

A. No sir, the only law that we had was that if we did not cull them good a man would not buy them.

Q. What difference did it make to him if the oysters were not culled?

A. If you were to fill up the barrels with shells you could not get anything out of it.

Q. That is if you allowed the young oysters to remain to such an extent as to make a difference in the contents of the barrel he would not take it as a full barrel?

A. No sir, he did not want to measure that way. The more he got in a barrel the better it was for him.

Redirect examination.

By Gen. McCLURG:

. I presume the purport of the last few questions asked you were ustain the charge in the bill of complaint in this case to the effect t the bad management of the oyster business in Mississippi has e much to destroy the oysters. I want you to state to the best our knowledge about the quantity of oysters now as compared h 23 or 24 years ago in this section about which we have been ing you?

. Well the same oyster reefs out here. That is the reefs out in lake that we call the shell banks, 23 or 24 years ago, they were ntiful there because they were not ever used at all. They were mall that they were not hardly any use. The factories began ake them and break into them. They were very thick on the tom.

. How thick?

. Five or six or seven inches thick on the bottom. So thick t they would not grow to any size at all, but gradually working hem and picking out the large ones and throwing the others k they got to growing again.

. Are they as plentiful now as they were then?

. They are not as thick now as they were then.

. I am not speaking of any particular reefs but in the whole itory?

. Yes sir, the boats make about as quick a trip now as they did n.

. Are not there a great many more taken out now than there e then?

. Oh I should smile. There are thousands of barrels more taken out.

2 Q. When you first began it was before the first factory was established along this coast?

. Yes sir, and they could not use many at that time when Mr. ez started.

. You were asked about the deep water channel as far as Cat nd and on towards the mouth of Pearl river Before this contro- sy arose a few years ago had you ever known or heard of that being the line between Louisiana and Mississippi?

. Cat Island channel?

. Yes sir?

. No sir, I never did hear that that is the line. I always heard the line run from Pearl river until they began to scuffle about nd then they claimed that Cat island was the line.

. Since when?

. That is since they began to talk about the line in the last two hree years.

Recross-examination.

By Col. ZACHARIE:

Q. When you spoke of the thousands of barrels that are n caught were you speaking of the oysters reefs in the neighborhood Biloxi and the eastward or were you talking about these marsh

A. I am speaking of the lakes to the southward and the westw and the northward of Cat island?

Q. You mean in that sound there?

A. Yes sir.

Q. Is it not your opinion as an oysterman that the constant fi ing of these reefs in this neighborhood during the summer, and t non enforcement of the culling on the banks has done very mu to destroy the fisheries in this neighborhood of Biloxi?

A. No sir, there were never enough taken from the oyster re in the summer time to amount to any thing.

Q. Was not that enough for your trade here?

A. Yes sir, but that is not enough to mention?

Q. And still it had a great effect in destroying what was here?

A. No sir, I don't think that it hurt them at all.

Q. You don't think that the culling of all of these young oyst and fishing them during the spawning season has any effect in creasing the supply of the oysters?

A. They would cull the oysters out there where they were.

Q. Don't you think that the fishing of them in the spawning s son has the effect of decreasing them to a great extent?

A. Yes sir, certainly it does.

Q. Well prior to the establishment of these canneries or factor there was very little demand for oysters was not there except t local consumption along the coast?

A. That is all. In the winter season when the raw business w here.

H. H. MATHIEU, a witness introduced on behalf of the State Mississippi, being duly sworn, testified as follows:—

1573 By Gen. McCLURG:

Q. How old are you?

A. 37.

Q. Where do you reside?

A. In Biloxi.

Q. How long have you lived here?

A. I have lived here or right between here and Ocean Springs the last 20 or 22 years.

Q. Where were you born?

A. In New Orleans.

Q. What is your occupation?

A. Oysterman or boatman.

Q. How long have you been in that business?

A. I have been there off and on for the last twenty years.

Q. Where have you been catching oysters?

A. All through the reefs here in Mississippi and Louisiana, and down as far as Texas, Sabine pass.

Q. Have you ever been in Grand marsh?

A. Yes sir, I have been all through it.

Q. Since when. When was the first time you ever went through it?

A. I guess about twenty years ago.

Q. Have you been going through there for the last twenty years?

A. Yes sir.

Q. Name the portions of it that you are familiar with and have visited often?

A. Well I have been all through from Isle à Pitre to Three Mile bayou, and Grand pass and through it down as far as the river, and past the river on the other side to Morgan City as far as Sabine pass mostly through the bayous and lagoons.

Q. Were you ever in Nine Mile bayou?

A. Yes sir.

Q. You have been down as far as Indian Mound bay?

A. Yes sir.

Q. And Treasure bay?

A. Yes sir.

Q. And Drum bay?

A. Yes sir.

Q. And from there to the northward to the sound?

A. Yes sir.

Q. Have you noticed any difference in the waters or the islands, any material difference or changes since you first went in there?

A. Well mighty little. There are little changes in the gaps, some of them. Nothing to amount to anything.

Q. What gaps have you noticed some changes in?

A. I think that Creole gap has widened a little bit, but the channel did not change. There was no change in the channel.

Q. Did you notice whether these islands that are in that territory down there about which we have been talking have subsided any or whether they are higher?

A. I think there is one of them gone.

Q. Which island is that?

A. St. Joseph island.

Q. I am speaking about those down in the marshes?

A. No sir, I think that they are all about the same. I went off and stayed for six years and came back and went through there at night the same as I ever did.

1574 Q. How much water was your boat drawing?

A. About three and a half feet.

Q. With a boat of light draft, say two feet draft at what place could you come out of the sound or Lake Borgne into that Grand marsh?

A. You can go through Three Mile bayou and come out to the southward.

Q. Coming this way?

A. Through Three Mile bayou and Nine Mile bayou.

Q. How are Johnson bayou and Turkey bayous?

A. They are shoal bayous from the inside.

Q. Grand pass?

A. That is just a cut through the marsh across. That don't enter inside.

Q. Three Mile and Nine Mile bayous?

A. Yes sir, they are entries into the marsh. Into the lakes inside.

Q. What do you know about the boundary line between the States of Louisiana and Mississippi?

A. I don't know anything much except that they claim around that is all, and what the chart says.

Q. Do you know where Pearl river is?

A. Yes sir.

Q. Do you understand Pearl river to be the line dividing Louisiana and Mississippi north of Lake Borgne?

A. Yes, sir.

Q. What do you know about the line between Louisiana and Mississippi south of Pearl river and east of Pearl river?

A. Running to the southward.

Q. Yes sir.

A. I know they claim Chandeleur islands in Louisiana on the line I believe with Pearl river. I have brought mail out there that was directed that way.

Q. To Chandeleur, Louisiana?

A. Yes sir.

Q. In what State is Isle à Pitre?

A. The end of it is in Mississippi I think.

Q. Isle à Pitre is an island is it?

A. It is an island or peninsula or point projecting out there.

Q. What separates it from the other body of the marsh?

A. Creole gap.

Q. Have you ever been disturbed by either side in fishing down there in Grand marsh?

A. No sir.

Q. Have you paid a license to either State?

A. Yes sir.

Q. What State?

A. Mississippi.

Q. When?

A. This winter the last license.

Q. When did you buy your first license?

A. This is the first license that I ever bought.

Q. Did you ever buy one from Louisiana?

A. No sir.

Q. Where did you fish under this license that you bought from
sissippi?
A. I fished on these inside reefs here in Mississippi sound.
Q. Did you go in the marsh?
A. No sir, not inside of the marsh. To the north of the marsh.
ll Banks reefs it is called.
Q. Were you ever about Sundown island or Brush island or Door
point?
A. I have been there yes sir.

Cross-examination.

By Col. ZACHARIE:

Q. Mr. Mathieu, has not this marsh of which you have been speak-
been almost universally called amongst the fishermen the Louisi-
marshes until very recently?
A. Yes sir.
Q. Have not the mouths of Three Mile bayou, Nine Mile bayou,
key bayou, Johnson's Bayou and Grand pass worn a good deal
er since you have known them?
A. The passes have changed the least bit. Not a great deal though.
Q. Do you know how the depth of the water has changed going
these bays and bayous?
A. I think it ranges about the same with the exception of Creole
That has deepened a little.
Q. There is a greater volume of water pouring into the marshes
e is not there? Through this deepened channel at Creole gap?
A. Creole gap does not enter into the marshes. It comes through.
Q. It goes through to the south side of the marshes?
A. Yes sir.
Q. And there is more water going through there than there was
nerly?
A. Yes sir there is.
Q. Is that not true in pretty nearly all of these bayous and passes.
ave you ever sounded them?
A. Yes sir, I have sounded them. I think that these main passes
bout the same. They have about the same water.
Q. You never pretended to fish under a Mississippi license in these
shes?
A. No sir.
Q. You fished only in the sound with a license?
A. Yes sir, that is all.
Q. You never *through* that your license gave you the right to fish
ese Louisiana marshes did you?
A. Well I never had no cause to go in there in fact.
Q. Well now what did you say that the depth of these vessels that
went in there with was? Through the marsh?
A. The last time I went through there I was drawing about three
a half feet.

Q. Did you not have to wait for the high tide to go through there?

A. No sir.

Q. Did you not get stuck on mud flats in a good many places in going through there?

A. No sir, I never got stuck at all. There are places that you can get stuck there though in.

Q. Is not the coast; the northern coast of these marshes worn away considerably. The crust of the marsh being crumbled away by the eating of the waves?

A. No sir, not that I noticed. It looks about the same to me.

Q. Did you ever take any particular notice with a view to see whether they were caving away or washing away?

1576 A. I did with the passes and such as that on account of the navigation.

Q. I mean the general coast line?

A. I think I would have noticed it in that case.

Q. You have spoken of these islands lying to the north of these marshes, or between the northern coast line of these marshes and the main land of Mississippi. Is St. Joseph island one of these?

A. St. Joseph island is about washed away.

Q. Did you know an island there named Round island?

A. Yes sir, there is one called Round island.

Q. What has become of that?

A. It has washed some too.

Q. Is there any Round island any longer there?

A. No sir.

Q. Is it not a fact that it has disappeared entirely?

A. It is washed away.

Q. How about Half Moon or Grassy island. Has that become partly washed away?

A. It is there still.

Q. Is it not partly washed away?

A. No sir, I don't think that Half Moon is washed much. No sir.

Q. Do you know where the deep water channel is that runs from the mouth of East Pearl river eastward?

A. Yes sir.

Q. Do you know how close it runs to the Mississippi main land?

A. To the marshes you mean?

A. Yes sir; to the marshes on that side. I call that a part of the main land, the marshes on the Mississippi coast?

A. I would judge it to be about eight miles across.

Q. Let me see if you understand me. I am speaking of just after you leave the mouth of East Pearl river. How close does it run to the Mississippi shore. The deep channel?

A. You mean to the Mississippi shore do you?

A. Yes sir?

. You pass the land there right along the side of it. Within yards.
. That is north of these islands that you have spoken of?
. Yes sir.
. That is the route that is followed by the deep water vessels ng to the eastwards and intending to pass down to the Gulf in channel between Cat island and Isle à Pitre?
. Yes sir, that is the main channel.
. To whom have you been delivering or selling your oysters e you have been engaged in the oyster business?
. Do you mean this season?
. Generally. The whole time that you have been occupied in business?
. Oh I have run them for most every body in Biloxi here. The lers.
. I mean to say what class of dealers?
. The Barataria Canning Company, Mr. Lopez, Mr. Gornflo, and Desports. In fact most all of them here.
. The demand for oysters has been manifestly increased has not ith the establishment of these factories?
. Yes sir, I think so.
. Do you remember the condition of this oyster trade before these canneries or factories were established?
A. Yes sir, some what.
Q. There was very little demand then was not there except home consumption?
. That is about all.
. Before these canneries were established there were a great many ers around here in the neighborhood of Biloxi was not there, k bay and along these islands to the east?
. There were a few around here?
. There were a great many oysters in Back bay?
. Yes sir.
. Were not there a great many oysters to the eastward. At Cedar nt and other points?
. At Scranton and Cedar point yes sir.
. Were not these oysters for the local demand fished all through summer time. For the local demand. For the hotels and board-houses and oyster shippers and so on?
. Yes sir, there was some fishing all through.
. That is true of the spawning season. Of the summer season?
. All of the time. They never stopped. The spawning season lieve they claim is all the year round. I don't know.
. No, it is only a few months. Is it not a fact that in those days oyster fishermen were not particular in culling the oysters on banks if they had a fair wind to get home on, and that they ed them as they were going home *of* after they got there?
. No sir, I never did.
. I mean to say about the fishermen generally?

A. I could not say that about other people. I don't know whether they did that or not.

Q. Well now as an oyster man would not you say that this habit of fishing oysters during the spawning season and if they were not culled on the banks would have a great tendency to destroy and diminish the oyster reefs?

A. Yes sir, if they were not culled, certainly.

Q. Could you form any sort of an estimate as to the proportion the demand was for oysters before the establishment of these canneries and what it is now?

A. Well I have no idea.

Q. Was there 1/100 part of the demand for oysters before the establishment of these canneries that there is now. In other words is not the demand one hundred times more now than it was in those days?

A. I think that it is yes sir.

U. DESPORTS, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Mr. MCCLURG:

Q. How old are you Mr. Desports?

A. 42 years old sir.

Q. Where do you reside?

A. Biloxi, Miss.

Q. How long have you resided here?

A. I have been here nearly all of my life with the exception of five years that I lived in Mobile when I was a child.

1578 Q. What five years was it that you lived in Mobile?

A. I was about eight years old when I went there. When I first moved there.

Q. You came back here at about the age of 13?

A. Yes sir.

Q. And you have lived here constantly since?

A. Yes sir.

Q. What is your business?

A. I am a raw oyster shipper.

Q. How long have you been in that business?

A. For 11 years.

Q. What are we to understand by your being a raw oyster shipper. Explain that?

A. I ship nothing but raw oysters. I am not a canner. I ship oysters by the thousand.

Q. How many thousand oysters did you ship this last season. That is about closed now is it not?

A. Well it closed about the 10th, of May. Of course as we approach April it keeps diminishing all of the time during the warm months. I expect on an average from the 1st of September to

the 1st of May, I expect about 60,000 a day would be a good average.

Q. You would average about 60,000 a day?

A. Yes sir.

Q. Well how does that compare with the year before?

A. A good deal better. I shipped about one third more oysters this last winter than I did the previous winter.

Q. Has your oyster business been increasing since you started it?

A. Yes sir, every year.

Q. Where have you been getting your oysters from the time you started up until now. Speaking in a general way?

A. Up to two years ago; up to the time they enforced this Louisiana law, nine tenths of my oysters came out of the Grand marsh over there.

Q. What stopped you two years ago from going down there?

A. Well there was a law there preventing boats from fishing and carrying oysters into this State and consequently I could not go there any more.

Q. Has that any reference to the beginning of the agreement entered into between the Oyster Commissions of Louisiana and Mississippi?

A. Well there is an agreement I think for the neutral ground.

Q. Where is that line?

A. It is I suppose the line along the north edge of the marsh.

Q. And where is the neutral ground?

A. That is the neutral ground.

Q. North of that line?

A. Yes sir.

Q. Are Mississippians excluded under that agreement from going into the marsh?

A. Yes sir.

Q. Out as far as Isle à Pitre?

A. They can fish under that law I think as far as Isle à Pitre and Grand pass and in through in there.

Q. Previous to that time you say the greater portion of the oysters were taken from Grand marsh?

1579 A. Yes sir.

Q. What portion of Grand marsh?

A. We got our oysters from Three Mile bayou and Nine Mile bayou and Turkey bayou and about Treasure island and Turkey bayou and Cat Island pass. In fact all of these places in there.

Q. Do you know in what State these bayous are?

A. I was under the impression that they were in Mississippi. We were never prevented from going out there up to two years ago.

Q. Why were you under that impression?

A. Boats hailing from these places would come out there and get oysters and there was nothing said about it.

Q. You know that the two States are divided north of Lake Borgne by Pearl river?

A. Yes sir, that has been my impression. I have heard them say that is the dividing line. Pearl river is the dividing line.

Q. Where is the line south of Pearl river?

A. My understanding was that the line was due south 18 miles from Pearl river.

Q. About how far down into Grand marsh would this line reach 18 miles from these places on the Mississippi shore?

A. Well it would take in these places that I have just mentioned. Three Mile bayou and Nine Mile bayou and Bayou Treasure and Mussell bayou and the principal places around where they get oysters there.

Q. Do you know where Brush island is?

A. I have not been out there lately. I only went out there twice. I passed near Brush island this last trip that I went. I never followed up catching oysters. I don't know any thing about the marsh. I never have been in the marsh. I know just what the boatmen would tell me when they come in with a load, that they got them out of Treasure bayou or Three Mile bayou, or where ever they got them down there, or Nine Mile bayou.

Q. Is there any difference in the demand for oysters since they have the canning factories?

A. Well they use a different kind of oysters. That is the highest price oysters that we use.

Q. You deal exclusively in raw oysters?

A. Yes sir.

Q. When were these factories established along here?

A. I think that the first factory was established about 1882 or 1883. The Biloxi canning factory.

Q. What effect has the establishment of these factories on the local demand for oysters?

A. It has increased the demand for oysters.

Q. About what per cent. do you reckon it has increased the demand?

A. Well I don't know. It is a very large increase. The more factories the more business there was.

Q. Well how about the growth and out-put of the oysters?

A. Well last year there were more oysters brought in than there were the years previous. We got a quantity of oysters last year.

Q. You mean to say that you judge from that there are more oysters in this territory than there was before?

A. There are just as many. There are more boats being built every year and naturally they bring in more oysters.

1580 Q. What about exhausting the supply of oysters in this territory?

A. I don't think that it has been exhausted any at all.

Q. If it be true that before the factories were established and even since that local hotels and restaurants and boarding houses have been using them through the summer months, and what is sometimes

he spawning season, has that had any influence towards ex-
g them?
don't think that it has for this reason. There are very few
brought here through the summer, and now here these sum-
ps that use oysters, they buy them from right around here from
iffs. Occasionally there is a boat comes in but there is very
mand for them. A schooner load I suppose would run all
shops in the summer time.
there any one else here dealing in raw oysters except your-

es sir, Mr. Gornflo and Mr. Mayberry.
ow many does Mr. Gornflo handle?
don't know sir how many he handles. He is a very large
also.
ou know where this deep water channel is that is between
nd and Isle à Pitre?
ell we were out there last year. That is the second time that I
er been out there, but I don't know much about these places.
ou did not go out to take oysters?
o sir, we just went out on a pleasure trip. We were out there
s. We sailed through to the southward. We passed Brush
nd Door point. We went down about twenty five or thirty

ior to the last two or three years, since this controversy arose
Louisiana and Mississippi over the location of the State line.
hat time did you ever buy any privilege license?
o sir.
d you catch these oysters or buy them?
bought them.
r the market?
s sir, off of the boats.
ou did not run these schooners?
have some of my own schooners. Yes sir, I own five
rs, but that of course would not supply me.
ou have five schooners engaged in the oyster business?
es sir.
ou bought the oysters from those who sold them and then
l them on the market?
es sir, I bought them from other schooners.
bout how much money does it take Mr. Desport to handle
ysters a day during the season, say beginning on the first of
tember and ending on the first of May?
ell including the buckets and handling and all about $180.00
They cost about $3.00 a thousand.
ell how does that compare with the expense of handling
oysters?
ell I don't know much about what it costs them to handle a
f oysters.

Q. How many hands do you generally have employed. How many men or women?

1581 A. Last winter I had about thirty openers steady. Of course near Christmas times I have extra men, but I buy a great many oysters by the thousand already opened. A great many are bought in that way from Ocean Springs, and at different places.

Q. You employ during the season an average of about thirty hands a day?

A. Yes sir, working around here. That is not the boatmen. Those are just the men that are opening. I expect about thirty-five, because I have five carpenters.

Q. How many do you have on your boats?

A. On the boats that they run to me?

Q. Yes sir.

A. There are about four men to the schooner. I have had as high as 12 to 15 schooners running. About 12 schooners would be something like fifty men.

Q. And sixty more?

A. Yes sir, about fifty more.

Q. Then you have altogether engaged directly or indirectly with your business about how many hands?

A. About 80 or 90.

Cross-examination.

By Col. ZACHARIE:

Q. Now Mr. Desports is it not a fact that until eight or ten years ago these marshes which have been testified to were almost universally known as the Louisiana marshes?

A. Well Colonel, I have heard them called Grand marshes and Louisiana marshes. I have heard them called very often Louisiana marshes.

Q. Did not the most of those fishermen here call them the Louisiana marshes?

A. I don't know that the most of them did. I expect that there were about as many called them the Grand marsh as the Louisiana marshes. I never paid any particular attention. They would say "We are going out in the marsh for oysters. Some times they would say Grand marsh and some times Louisiana marsh.

Q. Is it not a fact that this territory was almost universally conceded to be Louisiana territory until quite recently, 10 or 12 or 15 years ago?

A. No sir, not to my recollection. I never heard them say they were in Louisiana or Mississippi. They went out there and got the oysters and brought them in.

Q. Do you know that until recently the Louisiana law did not prohibit non residents of Louisiana from fishing in Louisiana waters?

A. Well I did not know that, no sir.

. Now you have spoken of the 12 or 15 boats in your employ. many of these boats are operated under a Louisiana license?
. That are run under me?
. Yes sir?
A. None at all.
Q. Were not there two or three?
A. There were three of them took out license last year of e but they were running in Louisiana in the disputed terri-. They would not allow us to fish in there. These men took this license because they have been accustomed to catch these e oysters in the marsh. They thought that they could make as h money by taking out the license and running these oysters he Rigolets. They did not know much about dredging.
. They were tong fishermen?
. Yes sir, nippers and tongs.
. Then according to your statement the only ones of the boats have taken out a license in Louisiana are boats that have taken ers from the Rigolets to New Orleans?
. The balance would not take them out because they could not y them any where else.
. Did the balance take them out in Mississippi?
. Yes sir.
. Since when did they take them out in Mississippi?
. Since the law went into effect.
. How long ago has that been?
. Two years ago.
. Is it or is it not a fact, Mr. Desports that almost from time im-norial that the reefs in the neighborhood of Biloxi and to the ward have been fished all during the summer?
. You mean over here?
. Yes sir.
. All during the summer?
. Yes sir, and the spawning season?
. I don't know. There are not many oysters fished in the sum-time. Three years ago all of the oysters we did have here were ed by the freshets, and there are very few oysters through here.
. You did not answer the question. The question is this. ether for the home supply these neighboring reefs have not been ed all during the spawning season to supply the hotels and the rding houses and the oyster shops?
. No sir.
. Can not you go into any of these hotels here and get oysters ?
. Yes sir.
. Then they are fished during the spawning season are not ?
. They are fished now what few oysters are around here. Some know come from the outside.

Q. Was not that universally the custom before the establishment of these canneries?

A. We don't handle oysters in my business in the summer.

Q. I am speaking now of the habit of the fishermen here from time immemorial to fish these reefs all during the summer season. During the spawning season?

A. For local use yes sir they would catch a few.

Q. Well do you or do you not know that almost from time immemorial, that these fishermen have been careless in culling on the banks in the neighborhood, and that whenever they got a load and the wind would spring up so they could go to their homes they would cull as they went, and then some times cull on the land after they got there. In other words was there any strict enforcement in regard to it of any kind. I am speaking of the years along back in regard to the culling on the banks so that the young oysters would be thrown back in?

1583

A. There has been a law for the last twenty years in regard to culling oysters.

Q. Has that law been enforced?

A. Well I think that it has. I never saw a schooner come in here culling oysters as they came. I have never seen that.

Q. You have not been aboard of these schooners?

A. No sir.

Q. You say that you only made two trips?

A. The trips that I made were short trips.

Q. You have been principally occupied with your business of opening and shipping oysters?

A. Yes sir.

Q. Outside of that you don't know much about the oyster trade?

A. No sir, I don't know where they catch them except when they tell me that they came from.

Redirect examination.

By Gen. McCLURG:

Q. You said that Mississippi had a law years ago in regard to license for fishing oysters. You said that you did not pay this license?

A. No sir.

Q. That is 10 or 12 or 15 years ago?

A. Yes sir.

Q. Did you own any of these boats at that time?

A. No sir, I did not own any boats at that time. There were inspectors some 15 or 17 years ago, but I did not own any boats then.

Q. Where did these inspectors come from. From what State?

A. From this State and this county.

Q. How far out did they go if you know?

A. Of my own knowledge I don't know how far they went. I could not say.

ERNEST DESPORTS, a witness introduced on behalf of the State issippi, being duly sworn, testified as follows:

By Gen. McCLURG:

How old are you, Mr. Desports?
I will be 51 my next birthday.
Where do you reside?
At Biloxi.
How long have you lived here?
I was born here.
Q. How long had your parents lived here?
A. I think that my grandfather first came to Biloxi in 1825.
What is your occupation now?
I am now bar pilot at Ship island.
Have you held any positions in Harrison county?
Yes sir, I was justice of the peace at one time. Constable at ime, and harbor master of Ship island at one time. I was r master for six years.
Of Ship Island harbor.
Yes sir.
You understand that this is a suit between Louisiana and Mis-pi over the boundary line between the two States?
Yes sir.
Now where is the dividing line between the two States. About ?
Well the dividing line of Mississippi and Louisiana is Pearl as I understand it. Well I have read the boundary of Missis-beginning there and going north, and thence east and south leagues from the main shore, and thence running in a westerly ion to the place of beginning, including all islands in the lary.
Within what distance from the shore?
Within six leagues or 18 miles.
Can you say whether the public generally before this contro-arose, generally regarded that as the true line?
I have always heard that regarded as the true boundary line sissippi.
Have you ever engaged in the oyster or fishing business here in?
For a short while I was engaged in shipping oysters. I did ep it up very long.
When was this?
That was about eight or nine years ago.
Where were your oysters taken from?
From the marshes. From the territory in dispute so the boat-old me who brought them in. I know nothing about that y out there at all. I was only there four or five days after the of 1893.

Q. Where were you then. In what portion of the marsh?

A. I only remember the names of a few places. I remember Turkey bayou and Three Mile bayou and Indian Mound bay and Isle à Pitre.

Q. How did you go out there?

A. I went out in a schooner.

Q. How much water did she draw?

A. The schooner was drawing about four feet.

Q. What route did you go?

A. I don't know.

Q. You could not tell?

A. No sir.

Q. You are not familiar enough with that territory?

A. No sir.

Q. What was your business out there?

A. I was one of a party of gentlemen who volunteered to go out to see if we could find any men in distress from the storm.

Q. Where did you go out from?

A. From Biloxi.

Q. They were the citizens of this town?

1585 A. Yes sir, we went on the schooner Emma Hand. She was one of the few schooners that was not lost in the storm.

Q. What did you find?

A. We found a great many men. Drowned men that we buried. I jotted down a description of all of those that we found. We buried them. The last few days we were out we found some floaters that we could not do anything with at all. We were too far from the marsh and we could not bury them, and we let them go, they were so swollen. We were about the first boat out. On our return trip back home we noticed a great many crosses where people had been buried, where the corpses had not drifted ashore when we first went out.

Q. Did you bury any out there?

A. We buried I think it was eight.

Q. Where did you bury them?

A. I don't remember where they were exactly except that they were buried at a place; two of them at a place called Karako camp, or bayou or some thing.

Q. What was the character of the soil in which you buried them?

A. It was dark looking mucky stuff. You would dig a little hole and it would fill with water. We would have to hold them down sometimes to bury them. We used several bottles of carbolic acid in order to get to them. My business was to jot their description down and I turned it over to a newspaper man. I think there were about three columns of that stuff that was published by the Picayune that was sent in by the correspondent here.

Q. Did you have any personal knowledge of any arrests made out there for a violation of the Mississippi laws. Out in that territory?

Well the only one that I have any personal knowledge of is Kennedy boys.

Col. ZACHARIE: This is objected to on the part of the State of iana by her counsel, as to any testimony in regard to any ju- l proceedings held in the State of Mississippi or in the county larrison unless the primary and best proof, the record of such shall be first furnished or accounted for before any secondary ence can be introduced.

By Mr. McCLURG:

You stated that you had personal knowledge of the Kennedy Were you present?

Not to the trial. Of the arrest I did. I saw them when they under arrest, but I was not at the trial.

Col. ZACHARIE: It is understood that the counsel for Louisi- make the same objection to all of this testimony of this character except to same.

By Mr. McCLURG:

There has been something said about taking the oysters here e spawning season, for the hotels and restaurants and local pur- poses. What do you know about that Captain?

A. Well I know that people do not eat oysters during the spawning season, when the oysters are in milk during the hs of April and May. When they are spawning you would not one person in five hundred that would eat an oyster then, be- they are not palatable and not fit to eat. We do not eat oys- n the spawning season. This is not the spawning season. The rs are through spawning.

Could you say whether the supply of oysters in this oyster ter- has been in any manner diminished or destroyed by reason king oysters in the spawning season?

I don't think that it has been hurt a particle.

The building of the canneries here has greatly increased the nd for oysters here has it not?

Yes sir.

Has the supply been about equal to the demand?

Last winter I understood from all of the canning factories and the raw oyster shippers that they had done a greater business they had ever done before. There seemed to be no trouble in g oysters.

That is after the agreement cutting us out?

Yes sir, this is last winter you know.

None of these oysters were taken as I understand it, west of l pass. South of the marsh land?

I have not seen an oyster come into Biloxi that looked like a oyster, except those taken from the neutral ground. There siderable difference in the looks of the oyster. One accus-

tomed to them can tell almost at once where the oyster comes by looking at the shell.

Cross-examination.

By Col. ZACHARIE:

Q. You have spoken of this territory in dispute as the G marsh?

A. I beg your pardon, I did not use that expression.

Q. What have these marshes been generally known as?

A. Generally speaking we call them the marshes. I have h them spoken of as the Louisiana marsh or the Grand marsh, bu a general thing the boatmen say "I am going out to the marsh Most of the boatmen use the expression "Marsh."

Q. Do you say that the oysters in this latitude cease to spawn the month of May?

A. In April and May they are spawning. At present you wo not find a particle of spawn in the oysters, but they have ceased spawn before this.

Q. Do you not know that it has been thoroughly established these southern latitudes that the oyster begins to spawn in the mon of April?

A. Yes sir.

Q. And extends away through to the month of October?

A. No sir, I do not, but I suppose it must be true because you c find young oysters growing on new planks in the water, but as general thing oysters are through spawing as we understand it June.

1587 Q. Well now is it not a fact that along this coast, whether yo come over here in the month of April or May or June or an other of the spring or summer months, that you can get oyster either raw or cooked at any of these restaurants or hotels or boarding houses or oyster shops along this coast. Do not they have them on hand constantly?

A. Yes sir, but none of the home folks eat oysters in the spawn ing season and very few outsiders.

Q. Well they have them?

A. Yes sir, but very few? That don't amount to anything.

Q. Then it is evident that the fishermen fish them during the spawning season?

A. Yes sir there is a small number taken out. They have noth ing else to do.

Q. Do you know anything about the habits of the fishermen in culling these oysters. Are they strict and careful to cull these oysters on the reefs, or do they when they get a load and have a fair wind start for home and cull on the way and cull on the land after they arrive home?

A. I never have seen oysters culled here after they arrived here As to what they do before they get here I don't know. I am not

accustomed to that country out there and I have never fished oysters for a living.

Q. Then you are only testifying to what you have seen and not what you have not seen?

A. Yes sir.

SATURDAY MORNING, June 11th, 1904.

The commission met this morning at 9 o'clock, and there were present Gen. Monroe McClurg, counsel on behalf of Mississippi, and Hon. John Dymond, Jr., counsel on behalf of the State of Louisiana and Hon. William D. Bullard, commissioner.

T. R. FRIAR, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. Where do you live?
A. In Ocean Springs.
Q. What county is that?
A. Jackson county.
Q. Jackson county, Mississippi?
A. Yes sir.
Q. How long have you been living there Captain?
A. Something like fifty years I think.
Q. What has been your occupation during that time?
A. I have done a great many things. I am a house carpenter by trade. I have followed that several years and several years I have shipped oysters.
Q. Where did you get the oysters that you shipped?
A. I bought them a good many, and a good many of them I planted.
Q. Are you familiar with the waters between Ocean Springs and the mouth of Pearl river?
1588 A. No sir, I cannot say that I am. I have been out there a good many times but I have always had some man that knew the water and I paid very little attention to it.
Q. When were you first in these waters?
A. I could not remember that. It is several years ago.
Q. In your best judgment. How long has it been since you first went there?
A. It must be 25 years.
Q. Were you ever in the marsh?
A. Yes sir. Not all through it.
Q. What portion were you in?
A. That is more than I can tell you. I have not been much further than Door point.
Q. Have you ever been in Isle à Pitre?
A. Yes sir, and Door point is beyond Isle à Pitre.
Q. Southwest from Isle a Pitre is not it.

A. No sir, that is southeast.
Q. Have you ever been as far west as Nine Mile bayou?
A. No sir.
Q. Three Mile bayou?
A. No sir. I am not familiar with the marsh and the names of the places. I possibly might have been there but I don't know the names of the places.
Q. Well were you ever about Isle à Pitre or Door point or in that vicinity; when you were down there as you state were you in the State of Mississippi or the State of Louisiana?
A. That is more than I can tell you, but I thought it was in the State of Mississippi.
Q. Why did you think you were in the State of Mississippi?
A. Because I have always heard that Pearl river was the line and from there running south.
Q. How far south?
A. I have heard that it was 18 miles.
Q. How long have you been hearing that?
A. I could not tell you. I have no idea.
Q. About how many years ago?
A. Twenty years I reckon.
Q. Have you ever noticed any changes in any of these bayous or islands out there since you went there?
A. No material changes. Some places get a little deeper and some places are filling up a little, but not to amount to much. The place that is called Creole gap has widened a good deal.
Q. Do you know anything about the history of Creole gap?
A. I don't know anything of it of my own knowledge. I have heard that a boat got stranded there and they had to dig it out and that caused that place to run through there.
Q. That place has widened?
A. Yes sir.
Q. How long do you say it has been since you first saw that marsh?
A. I think that it has been about twenty five years. I am not certain about that. It is somewhere about that I guess.
Q. What has it been called during this time if you know?
A. I have heard it called Grand marsh. Generally in speaking of it it was spoken of as the marsh. If you would ask a boatman where he was going or where he got his load *and* he would say in the marsh. Lately they have called it the Louisiana marsh?
Q. How long has it been since you have heard it called Louisiana marsh?
1589 A. That is just a few years ago. I don't know.

ss-examination.

By Mr. DYMOND:

ain how old are you?
59.
were born and raised in Ocean Springs?
ir, I was born in Marion county Mississippi.
n did you first come to Ocean Springs?
ld not remember. I was very small then.
t how old. Five or six years old?
ir, I suppose so.
n were you first interested in the oyster business in any

thing like 25 years. I could not say exactly.
re were you at that time. In Ocean Springs?
ir.
ou ever fish oysters in Back bay?
not remember whether I ever did or not. I might have
never fished oysters extensively.
n you first went into the oyster business were there oysters
ean Springs and Back bay and along the coast here?
ir, there were oysters.
caused you all to go over in the marsh to get oysters?
t them more plentifully.
were more plentiful there than they were here?
ir.
were they not plentiful here?
is some thing that I could not say.
t because they were fished out?
ps there is a good deal in that. That is hard to tell.
t how long ago was it that you first heard the marshes as
em called the Louisiana marshes?
is a few years back. Possibly ten years. I don't know.
nly reason that you had for supposing that you were in
when you were over there was because you thought you
18 miles of the Mississippi main shore. Was not that
ason?
ir.
lid not know what rights Louisiana had in this marsh

nly not.
lid not know you were within nine miles of Louisiana
?
d not tell you that.
matter of fact there has never been any line drawn down
marsh 18 miles from the shore?
t know sir.
ow frequently were you in the marsh?
ry often.

Q. If you were not very often in the marsh would you be competent to tell whether there had been any changes there or not?

1590 A. Well of my own personal knowledge I don't know much about it.

Q. You don't know much about that?

A. No sir, only from hearsay. What I have heard others say. Only as far as Creole gap. I have seen that and noticed it.

Q. You know that has gotten bigger?

A. Yes sir, I know that has gotten bigger.

Q. Were you ever down there in the swamp Captain?

A. No sir.

Q. These factories that have been built along the coast. They have increased the demand for oysters very much have they not?

A. Yes sir, I think so.

Q. You have had to go further and work harder to get oysters since these factoriss have been working?

A. I never got any oysters for the factories.

Q. You have always handled a better grade of oysters? Is it not a fact that the oysters for shipping purposes are more plentiful in the marshes than in the sound?

A. Yes sir, they are more plentiful.

Redirect examination.

By Gen. McCLURG:

Q. You were engaged in shipping raw oysters?

A. Yes sir, raw oysters.

Q. You never have been engaged in the canning business?

A. No sir, I never have been.

Q. Crevasses from the Mississippi river, and the fresh water coming down the streams out of Mississippi and Alabama and pouring into the sound destroyed the oysters did not it?

By Mr. DYMOND: Objected to by the counsel for Louisiana on the ground that the question is leading and an exception is reserved on that account.

By Mr. McCLURG: What effect does fresh water have upon oysters?

A. Too much fresh water will kill them.

Q. Do you know of any time that they were injured by fresh water?

A. Yes sir.

Q. Where did the water come from?

A. Well it came from too much rain.

Q. I mean how did it get into the sound?

A. Well that is through these crevasses.

Q. From the Mississippi river?

A. From the Mississippi river.

Q. Do you remember what years that was?

A. No sir, I do not.

A. RYAN, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLURG:

Q. Where do you live Mr. Ryan?
A. Ocean Springs sir.
Q. How long have you lived there?
A. I was born and raised in Ocean Springs.
1591 Q. How old are you?
A. I am 59 years old sir.
Q. What do you do there?
A. I am a carpenter and a fisherman and also an oysterman.
Q. When did you first do any oyster fishing?
A. Well sir when I began I suppose that it was about six or eight years after the war.
Q. That is six or eight years after the civil war?
A. Yes sir.
Q. Somewhere about 1870?
A. Yes sir.
Q. Where did you fish?
A. The first oyster fishing I ever did I followed it right here at home. Right here in the bays for a certain length of time, and then when the oysters got a little scarce I did like the rest of them. I went elsewhere.
Q. Where did you go?
A. Out to the marsh.
Q. To what marsh?
A. At that time we always called it the Grand marsh. I don't know what they may call it at present. A great many call it the Louisiana marsh now I suppose.
Q. In what part of the marsh did you go?
A. I never went into the interior at all. I always fished near the eastern lines of the marsh. I have gone out as far as Cat Fish pass. That is about as far as I have ever gone out there in these marshes.
Q. Cat Fish pass?
A. Yes sir, that is what they called the name when I used to go out there.
Q. Have you ever been about Isle à Pitre?
A. Yes sir.
Q. Grand pass?
A. Yes sir.
Q. Were you ever as far west as Three Mile bayou?
A. I went to Three Mile bayou yes sir. One time it was on account of bad weather that I went into Nine Mile bayou. In fact I don't know the water in there myself. I only had one of my boys with me. He had been running out there and he knew the water in there and he went in there for a harbor.
Q. How far in Nine Mile bayou did you go?

A. We went in the mouth of it I don't hardly think more than a quarter of a mile sir.

Q. What sort of a boat were you in?

A. I was in a schooner.

Q. How much did she draw?

A. She drew about three feet or three and a half feet.

Q. When was this?

A. That was three winters ago.

Q. That is the only time that you remember being in Nine Mile bayou?

A. Yes sir, I went through Three Mile bayou a great many times but there are several ways to go through the marsh, and on account of the winds. You meet a head wind and you will go one way and a fair wind and you will go another. We went through Three Mile bayou the most of the time.

Q. When did you first go through Three Mile bayou?

A. Well sir I could not tell you exactly when I first went through there. It might have been maybe three or four, or four or five years ago. Maybe it was a litle longer than that.

1592 Q. Well do you know where the eastern mouth of Pearl river is?

A. Yes sir.

Q. When you were out there in the mouth of Nine Mile bayou and about Isle à Pitre and Cat Fish pass. They are there close together?

A. That is I suppose about south of Isle à Pitre.

Q. What do you know about the line between Louisiana and Mississippi there?

A. Well sir, I don't know that I know a great deal of the lines but I have always heard it said you know that the lines run south from the river straight out.

Q. From what river?

A. From Pearl river.

Q. Straight our how far?

A. I believe it is 16 or 18 miles is what I have always understood.

Q. How long have you been understanding that this is the line?

A. Well for 18 or 20 years or maybe more. Maybe it is thirty years.

Q. Do you know anything about the lines. Did you ever read any of the laws describing them?

A. No sir.

Q. What you know about it is entirely f-om what you have heard?

A. That is what I have heard yes sir. I am here under oath and I would not like to say one thing more than what I really know what is right.

Q. And I would not have you to do any thing else?

A. No sir.

Cross-examination.

By Mr. DYMOND:

Q. Now Captain when you fished in the marsh did you see any oats from the Old Basin fishing in there?

A. Yes sir, I saw a great many all over the marsh sir. That is here I have fished, at Grand pass and around Cat Fish, and come hrough Three Mile bayou and you have to go around the Karako here.

Q. Did you or did you not know what the law of Louisiana was that time in regard to non residents fishing in Louisiana?

A. No sir, I did not.

Q. You were not disturbed in fishing there at all?

A. No sir, not at all.

Q. It might have been that the Louisiana law permitted you to sh there at that time might not it?

A. Well every body fished in there at that time sir. I thought at I had as much right to fish there as any body else.

Q. Your idea about your thinking you were in Mississippi was ue entirely to the idea that you had that Mississippi run 18 miles the south of Pearl river?

A. Yes sir.

Q. You knew nothing about what claim Louisiana had to this territory did you?

593 A. Well no sir. What made me think that it might have been in the Mississippi, on account of this line if it run out athward from Pearl river I thought that I was always to the east-ard of this line.

Q. But you did not know that there was a line of Louisiana run-ng three leagues or nine Miles from her shore line over this way stward towards Malheureux point?

A. No sir.

Q. Or that she claimed any thing like that?

A. No sir.

Q. In fishing there Captain did you ever see any boats running tween New Orleans and the coast over here. Running by the golets?

A. Running this way?

Q. Any boats engaged in the coast trade from here to New Or-ans?

A. Well no sir as a general thing when they come from the arshes this way they generally strike out north east is our course.

Q. I don't mean from Three Mile, because that is on the coast be-ween Malheureux point and Isle à Pitre. I mean coming out of e mouth of Pearl river and out of the mouth of the Rigolets. ast boats going from here with charcoal and wood. Do you ow what route they followed. Was there any special course that ey used to go along?

A. Well yes sir, they went down this coast here towards the Rigolets. About a south west course.

Q. Why did they take this course. Do you know?

A. They had to go that way so that they can go straight through the Rigolets I suppose.

Q. Is there any deeper water there than any where else. I mean along through the sound there?

A. I suppose there must be.

Q. Do you know any thing about a channel that runs out of the mouth of Pearl river?

A. No sir, I am not very well acquainted with the channels in that country sir. I have made a few trips to the city but it was always on small boats, and on them you don't have to look for any such things as channels.

Q. When you started fishing oysters you used to get plenty of them around here?

A. Yes sir, I used to fish here.

Q. And as they got scarce here and there was more of a demand you went to other places to get them?

A. Yes sir, in the long run they got scarce. But at present a man can go out there and made a pretty fair day's work yet when he has the weather to do it.

Q. Is not the quality of the oysters in the marshes better for the shucking trade?

A. No better than it is out. Of course in quantity you can get more from there, especially in the raw oyster business.

Q. That is what I say?

A. Yes sir.

Q. You can get more oysters of a better class in the marshes than you can around here for the same kind of work?

A. Yes sir.

1594 A. BEAUGEZ, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Mr. McCLURG:

Q. How old are you?
A. 45 years old.
Q. Where do you live?
A. In Ocean Springs.
Q. How long have you lived there?
A. 23 years.
Q. Where were you born?
A. In Jackson county, right across the bay.
Q. What is your occupation?
A. Well carpenter work. I follow boat work.
Q. How long have you been in the oyster business?
A. It has been a good long time.

Q. How many years do you think?
A. Well it has been at least about twenty five years.
Q. Where did you get your oysters?
A. In Grand marsh I run a boat about 12 years, and quit for about 15 years.
Q. When did you run the boat last. When did you quit?
A. Oh it has been about 15 years ago. We stayed on Cat island 11 years.
Q. You stayed on Cat island 11 years?
A. Yes sir.
Q. You lived on Cat island?
A. Yes sir.
Q. Who did you live with?
A. With my folks. My father and brother and sister.
Q. How long is Cat island?
A. The main body of the island is about seven miles long or maybe a little more.
Q. How wide is it out to the woods point?
A. The woods point is about three quarters of a mile wide.
Q. Did you go into Grand marsh from Cat island?
A. Yes sir.
Q. What part of Grand marsh did you go in?
A. The furtherest I went any ways was Cat Fish bayou. You now around the front was covered up with oysters then and we did ot have to go way back.
Q. Did you ever go through Grand pass?
A. Yes sir.
Q. Did you ever go through Three Mile bayou?
A. Yes sir.
Q. When did you first go through Three Mile bayou?
A. I was a young fellow and I did not take no recollection of all f these trips. It has been so long that I have almost forgotten it.
Q. How long did your father live on Cat island?
A. 11 years. We all stayed there together.
Q. In what State is Cat island?
A. I have always heard that it was in Mississippi.
Q. Do you know where Isle à Pitre is?
A. Yes sir.
Q. What State is Isle à Pitre in?
A. I have always heard that it was in Mississippi.
595 Q. Why do you say it is in this State?
A. That is what I have heard. I don't know nothing bout the law. I am not educated enough to know the law.
Q. Tell us what you have heard about it?
A. I have always heard that it was in Mississippi.
Q. Do you know where Pearl river is?
A. Yes sir.
Q. What has been your understanding as to the limits of Mississippi. As to how far it went?

A. The line you mean.
Q. Yes sir?
A. I have always heard that it was the line. That Pear
was the dividing line.
Q. Between Louisiana and Mississippi?
A. Yes sir.
Q. Th-n which way did Mississippi go from the mouth of
river?
A. I have always heard that it went south.
Q. How far?
A. I don't know sir how far.
Q. Could you say as to whether it went to Grand marsh?
A. I have always heard that it went 18 miles. That is w
have heard, but to say that I know it I suppose that I do not.
Q. When were you over there in the marsh the last time?
A. I went in a trip about two or three years ago. I stoppe
business of fishing about 15 years ago.
Q. Did you notice any changes in the bayous and lakes and is
down there?
A. The only place that I saw much change was at Creole g
Q. What change did you notice in Creole gap?
A. It is wider there.
Q. Do you know whether any body ever lived in the Grand
like you did on Cat island.
A. Well there was a camp that the Pascagoula factory had p
there at Kazako bay. The camp stayed there for a good long
Q. What became of it?
A. I don't know sir. I think that they took it up if I am
mistaken.
Q. When was this. How long ago?
A. Just as I told you I was young and I did not keep any re
of it.

Cross-examination.

By Mr. DYMOND:

Q. You say that you have not been fishing for about 15 y
Captain?
A. Yes sir.
Q. This is 1904. 15 years would carry you back to 1889. D
to that you fished and lived on Cat island?
A. Before we moved to Ocean Springs. You can count that
Q. Do you know any people living in Pass Christian?
1896 A. Yes sir, I do.
Q. Do you know a Mrs. Monroe, or the Missies Monroe
the house on the beach there at Pass Christian?
A. No sir, I don't know them. I knew Dr. Laroux.
Q. Did you ever know a man by the name of J. Leori?
A. No sir, I did not know him.

Q. Did you ever know of any body claiming to own Isle à Pitre; having bought it from the Government?

A. No sir, I never heard of it.

Q. So as a matter of fact you don't know whether Isle à Pitre belongs to any body or not?

A. No sir.

Q. You say you thought you were in Mississippi because where you were was 18 miles from the Mississippi shore?

A. Yes sir.

Q. Did you know any thing about what the claims of Louisiana were?

A. No sir, I just went by what I heard.

Q. Now is it not a fact Captain that the marsh has been called the Louisiana marsh just about as much as it was ever called Grand marsh?

A. Well the first time that I heard it it was Grand marsh. The parties would leave here and go to Grand marsh.

Q. How long ago is that?

A. It has been a good long while ago.

Q. When did you first hear it called the Louisiana marsh. About how many years ago do you think?

A. It has been a good while since we stayed on the island. There is Louis Gren, and Baptiste Moran that called it the Grand marsh.

Q. When did you first hear it called Louisiana marsh?

A. Lately.

Q. How many years ago?

A. I could not say.

Q. As much as ten years ago do you think?

A. About.

Q. You don't know what the lawyers from Mississippi say about this being Louisiana marsh in their papers in court?

A. No sir, I did not read the papers. I am not a scholar much.

1597 United States Supreme Court.

THE STATE OF LOUISIANA }
vs.
THE STATE OF MISSISSIPPI. }

Vol. 3, p. 611 to p. 923, incl.

1598 J. B. BEAUGEZ, a witness introduced on behalf of the St of Mississippi, being duly sworn, testified as follows:

By Gen. McCLUNG:

Q. Where do you live?
A. Ocean Springs.
Q. Jackson county, Mississippi?
A. Yes sir.
Q. How old are you?
A. I am 48.
Q. How long have you lived at Ocean Springs?
A. 23 years.
Q. What has been your occupation during this time?
A. Fishing.
Q. Where have you been fishing?
A. Well I have fished all over here in these waters. Chandeleu island and Horn island and Cat island. I have fished a good deal.
Q. Oyster fishing?
A. Fishing mostly.
Q. Do you know where Isle à Pitre is?
A. Yes sir.
Q. Nine Mile bayou?
A. No sir, I have not been in there.
Q. Three Mile bayou?
A. Yes sir, I have been as far as Three Mile bayou and that is about all.
Q. Did you ever fish in this section?
A. Yes sir.
Q. What is that section of country down there called where Isle à Pitre and Grand pass and these bayous are?
A. I have fished down there.
Q. What is the name of the place down there?
A. There is Jack Williams and the Karakos and Three Mile bayou.
Q. How long have you known these places?
A. About 31 or 32 years.
Q. Do you know where the line is that divides Louisiana and Mississippi?

A. Well no sir. I have heard a good many times that the line run from East Pearl river south.

Q. How far south?

A. About 17 or 18 miles south. That is what I have heard.

Q. How long have you been hearing that?

A. Oh well ever since I was a little boy. I have always heard my folks say so. That is the old people.

Q. Have you heard this marsh down there called by any other name except the marsh?

A. I have always heard it called Grand marsh except lately.

Q. Is that marsh; any portion of it within 18 miles of the Mississippi shore?

A. Well yes sir, it is.

Q. The Karako and Jack Williams and these other places. Are they within 18 miles of the Mississippi shore?

A. Yes sir, I rather think they are.

Q. Isle à Pitre?

A. Yes sir, Isle à Pitre is a heap closer than these other places.

Q. When you were in this country down there. At Isle à Pitre and Karako. What State were you then in?

A. Well I thought I was in Mississippi State according to what I have heard.

Q. You have never read any of the laws on the subject?

A. No sir, I never did.

Cross-examination.

By Mr. DYMOND:

Q. You thought you were in Missi-sippi because you thought you were within 18 miles of the shore?

A. Yes sir.

1760 Q. Whether Mississippi is really entitled to the 18 miles from the shore you don't know?

A. No sir.

Q. And as to what Louisiana's rights are in the matter you don't know?

A. No sir.

Q. When you fished there did you not see Louisiana boats fishing there the same as you were?

A. Yes sir, I have seen a good many Louisiana boats fishing there also.

Q. Could you tell exactly what points were 18 miles from the Mississippi shore?

A. No sir.

Q. You don't know whether Martin island is in Mississippi or not do you?

A. No sir, I could not say if it is or not. Martin island is a long ways out.

Q. Did you ever fish oysters?

A. Yes sir, I have fished oysters, but a mighty few.
Q. Where did you fish oysters down there?
A. When I did the oyster fishing I always fished on the r
mostly in front of Isle à Pitre, and all around Cat island and so
at Jack Williams bay, and south of the Karakos.
Q. You are a brother of Mr. A. Beaugez who testified just bef
you did?
A. Yes sir.
Q. And you lived on Cat island with the family?
A. Yes sir.
Q. Did you ever know one John Leovi who had a home at Pa
Christian?
A. No sir.
Q. You quit fishing about the same time that your brother di
About 15 years ago?
A. Yes sir, about that.
Q. Did you know a gentleman by the name of Mr. Gilmore wh
claimed to own Isle à Pitre?
A. No sir, I did not.
Q. You have not fished there since about 1889?
A. No sir.
Q. Now in regard to this being called Louisiana marshes. As I
understand it you say that it has recently been called Louisiana
marshes. Lately?
A. Yes sir.
Q. Well for how many years do you think?
A. Well for about eight or ten years.
Q. Well now as a matter of fact you really don't know which of
these States these marshes belong to do you. As a matter of law or
of fact?
A. No sir, I don't know.

E. LADNIER, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLURG:

Q. Where do you reside?
A. Ocean Springs.
Q. For how long?
A. It has been 23 years that I have been there.
Q. How old are you?
A. 37.
Q. What is your business?
A. Well I have not been doing nothing but oystering.
Q. How long have you been oystering?
A. Well I have been oystering now about 23 years.
Q. Where?
A. Out in the marsh. On the reefs.

Q. What part of the marsh have you been in within the last 23 years?

A. Well we have been working the most in the northern part of it.

Q. Name some of the places?

A. We have been working in Karako bay and Indian Mound bay and Drum bay and in through there.

Q. Were you ever up in the neighborhood of Nine Mile bayou?

A. Yes sir.

1600 Q. Do you know where that is?

A. Yes sir.

Q. Three Mile bayou?

A. Yes sir, Three Mile bayou.

Q. Johnson bayou?

A. Yes sir.

Q. Turkey bayou?

A. Turkey bayou.

Q. Creole gap?

A. Creole gap.

Q. Grand pass. You know all of those places?

A. I know them all.

Q. When you were in those places what State were you in, Louisiana or Mississippi?

A. Well I always thought I was in the State of Mississippi.

Q. Why did you think that?

A. Because I always heard that the line run due south from the mouth of Pearl river.

Q. How far south?

A. I have always understood that it was 18 miles.

Q. Did you ever read the laws on this subject?

A. No sir, I am a mighty poor scholar.

Q. And what you heard is by tradition and what the people say about it?

A. Yes sir, that is all.

Q. Have you noticed any changes in the bayou and islands in the marsh?

A. Not a bit. It has been the same to my knowledge. Only one place, and that is on account of the tide running so hard I suppose. That is Three Mile bayou.

Q. What change did you notice there?

A. Well they washed away there I expect about 100 feet. That is about all.

Q. At what place?

A. At Three Mile bayou, about on the west point of it.

Q. On the west point of Three Mile bayou?

A. Yes sir.

Q. About 100 feet washed away?

A. Yes sir, to my knowledge. It has been 23 years.

Q. State whether or not you have noticed any change in the

height of the islands. Whether they are higher or any lower than they were when you first noticed them?

A. I don't suppose that there is an inch.

Q. You don't suppose that there is an inch?

A. No sir, it has always been the same, only in some places the strong stream of the tide will take the mud off. That is all.

Cross-examination.

By Mr. DYMOND:

Q. You say that you have been fishing oysters for 23 years?

A. Yes sir.

Q. You live at Ocean Springs?

A. Yes sir.

Q. Did you ever fish oysters back here in Back bay about Gravelling?

A. No more than to get a catch of them, a mess for my own use.

Q. Why did you go over to the marshes to fish oysters?

A. That is where I always went. I never made it my business to work here at all.

Q. Were the factories here when you first started to fish oysters?

A. Well no sir, not exactly. When we first started running we got them for shop use.

Q. You think that is 23 years ago as well as you remember?

A. Yes sir, about 23 years ago.

Q. When was the last time you passed through Three Mile bayou?

A. About a month ago.

Q. And you say that the only difference in Three Mile bayou in the last 23 years is that about 100 feet of the west side is washed away?

1601 A. The west point on the bayou is washed away.

Q. Did you ever measure it there?

A. No sir, I did not go to that much trouble.

Q. How wide was Three Mile bayou when you first saw it?

A. Well I suppose that it was about three or four hundred feet or something like that. I would not say exactly.

Q. That is 23 years ago?

A. Yes sir, 23 years ago.

Q. How wide is it today?

A. Today I don't suppose that it — more than 500 feet.

Q. What is the condition of the west side of Three Mile bayou today. What does it look like when you go in there? What is the difference between the west side and the east side?

A. The west side of it comes in to a point like and the east side is a body of land.

Q. What is the condition of the point on the west side?

A. Well it comes right narrow just like I am telling you, to a point.

Q. And that is all there is to it?

A. Yes sir, that is all.
Q. You are positive about that?
A. Yes sir.
Q. You could not be mistaken?
A. No sir.
Q. And you were out there a month ago?
A. Yes sir, there is a narrow point comes there and makes a little mud shoal.
Q. Is not there a little grass on it. Is there not a little island down there on the west point?
A. Yes sir, it is from the point washed away like I tell you.
Q. Is not it much more than a hundred feet from that island back to the main shore on the west side?
A. It may be. I have not measured it.
Q. Well now did it not use to run away beyond this little point that is left there. Did not this point use to run much further north east and did you not use to have to come in on a south west course?
A. You have to now.
Q. Did you not have to come in on a much more southwest course 23 years ago than you do now?
A. Not much.
Q. How much then?
A. Well no more than a couple of hundred feet anyway.
Q. Now Captain if you were told that certain witnesses knew that bayou when it was not more than seventy five feet wide would you be prepared to say that the witnesses were not stating the truth?

By Gen. McCLURG: Counsel for Mississippi notes an exception to this question on the ground that it is incompetent to have this witness express his opinion as to the truthfulness or untruthfulness of what other witnesses have testified in this case. It being left to him to tell what he knows, and then it to be compared by the court with what other witnesses have to say, and who have not been impeached.

Q. Now Captain, if I were to tell you that certain witnesses knew hat bayou when it was not more than seventy five feet wide, would ou be prepared to say that those witnesses were not telling the uth?
A. I don't know. It might have been seventy five feet beyond y knowledge.
Q. Now Captain were you ever stopped from fishing oysters in the arshes Did any body ever stop you from fishing them there?
A. No sir.
Q. Did you fish there last year?
A. Yes sir, I fished there last year.
Q. Did you have a license when you fished there?
A. Yes sir.
Q. A Louisiana license?
A. Yes sir.

Q. With that Louisiana license did not you have as good a chance as any one else to fish in there?
A. Yes sir.
Q. What did you do with your oysters?
A. I brought them to the Rigolets.
Q. To the Louisiana Oyster Company?
A. Yes sir.
Q. It did not work any hardship on you because you had to get a Louisiana license?
A. Not to say a hardship. I paid $16.50 for it.
Q. How many boats did you have?
A. One big boat.
Q. How much was the Mississippi license?
A. The Mississippi license cost ten dollars.
Q. You had to send your oysters to Louisiana. You could not take them to Mississippi?
A. No sir.
Q. You had as much opportunity to fish down there as you did before except that you fished under a Louisiana law?
A. Yes sir.

Redirect examination.

By Gen. McCLURG:

Q. When did you first buy a Louisiana license?
A. This winter past. Last year.
Q. When did you first buy a Mississippi license?
A. I got that two years ago.
Q. Where did you fish under the Mississippi license two years ago?
A. We fished as far as Grand pass.
Q. Have you ever fished any in the marshes under the Mississippi license?
A. No sir.
Q. What has that marsh been called down there?
A. I have always called it and heard it called Grand marsh, or the marsh.
Q. You have heard it called Louisiana marsh have not you?
A. Yes sir, here lately.
Q. Since when?
A. It has not been more than a couple of years since I have heard it called that.

LOUIS RYAN, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Mr. McCLURG:

Q. How old are you?
A. I am 65 years old.
Q. Where do you live?
A. At Ocean Springs, Miss.
Q. How long have you lived there?
A. I was born and raised there.
Q. Do your parents live there?
A. Yes sir.
Q. How long did they live there?
A. I don't know how long they lived there. I know that I was born and raised there so far as I know. I could not tell you how long they have lived there.
Q. What is your present business?
A. Boating.
1603 Q. How long have you been boating?
A. Almost all of my business is boating in these waters. Running pleasure boats and so on. That is the most of my work.
Q. Are you familiar with the waters between Ocean Springs and Pearl river?
A. Yes sir, as far as Pearl river, yes sir.
Q. Do you know any thing about Nine Mile bayou and Three Mile bayou and Turkey bayou?
A. No sir.
Q. Do you know any thing about the marsh?
A. No sir.
Q. How long have you been knowing the eastern mouth of Pearl river?
A. Well I guess that I have been knowing the eastern mouth of Pearl river somewhere around 25 years.
Q. Where have you been generally running your pleasure boats?
A. Between here and Pass Christian and Scranton and so on.
Q. Did you ever go out south of Deer island and Ship island?
A. Yes sir, I have gone as far as Horn island.
Q. How long have you been going in that territory. Out in the Ship Island territory?
A. Well I have not been at Ship island for I don't know how long.
Q. When did you first see Ship island?
A. I guess I must have been about 14 years old. That is when I first went there.
Q. Well tell us what you know about the boundaries of Mississippi and Louisiana, Captain.
A. I don't know any thing about it sir.
Q. You have never read any books on it at all?

A. I never have.
Q. Have you ever heard the old people say any thi
A. Only lately I have heard the people talking abou
the boundaries of Louisiana and Mississippi, that is all
about it. As far as my own knowledge is concerned I
any thing about it.
Q. You don't know where the line is?
A. No sir, I do not. All that I heard, that the line t
the State of Louisiana and Mississippi they say is Pearl
Q. You know where East Pearl river is do you?
A. Yes sir, I know that.
Q. Have you any idea which way the line runs out of
of East Pearl river?
A. No sir.
Q. You don't know?
A. No sir.

L. FAYARD, a witness introduced on behalf of the State
sippi, beirg duly sworn, testified as follows:—

By Gen. McCLURG:

Q. Where do you reside?
A. Ocean Springs.
Q. How old are you please sir?
A. I will be 55 in July.
Q. How long have you lived at Ocean Springs?
A. I came to Ocean Springs five years after the surrende
Q. Where from?
A. I was in Mobile during the war. My native home i
town of Biloxi.
Q. What is your present occupation?
A. My present occupation is attending to a county bridg
Q. What is your occupation during your past life?
A. An oysterman.
Q. From Ocean Springs?
A. Yes sir.
1604 Q. Where did you take oysters?
A. You mean the place that I took the oysters from
is what we call Grand marsh.
Q. When did you first take oysters in Grand marsh?
A. I think as near as I can recollect it was about 1870.
Q. How long did you continue to take them from 1870?
A. Well along for about 15 or 20 years.
Q. So then you took oysters from about 1870 to about 189
A. Yes sir.
Q. From what place in the Grand marsh did you take oyst
A. Well from the two point lagoon and Karako bay, and
pass, and Creole gap and Jack Williams bay.

Q. In what State are those places?

A. Well I have always heard it called the Grand marsh.

Q. Is it in the State of Mississippi or in the State of Louisiana?

A. We have always been under the impression that it was in the State of Mississippi.

Q. Why?

A. I have always heard that it was that way.

Q. Do you know where Isle à Pitre is?

A. Yes sir.

Q. It is north of these places that you have mentioned or north east is it?

A. It is north east.

Q. You know where the mouth of Pearl river is?

A. Yes sir.

Q. Malheureux point and all of those places out there?

A. Yes sir.

Q. How long has it been your understanding that these places that you have mentioned are in the State of Mississippi?

A. About 12 years.

Q. Did you ever buy any license 12 or 15 years ago to fish oysters in the State of Mississippi?

A. No sir.

Q. Did you ever buy any license at all?

A. No sir.

Q. Did you ever buy one from Louisiana?

A. No sir.

Q. Tell us how it was that you first come to the understanding that these places we are talking about were in the State of Mississippi?

A. Well I just knew that in running for these different firms along down the coast, and running some times down to Mobile.

Q. For what?

A. Oysters.

Q. At what points here did you deliver your oysters to?

A. Well I delivered them —; it was what was called the raw oyster business at that time.

Q. Was this before the canneries started?

A. I run with Mr. Gornflo and Mr. Lopez, and I used to run for Mr. Desports down here and I run back to Back bay too.

Q. When were you in the marsh the last time?

A. It has been a good while. I freighted oysters out of Three Mile bayou about three years ago.

Q. What was the draft of your boat?

A. My boat that I run on when it was loaded was carrying 450 to 500 barrels and drawing five feet of water.

Q. How far down Three Mile bayou did you travel thus loaded?

A. I did not go any further than about a half a mile or three quarters inside of the bayou.

Q. Do you know whether or not that trip could be made through

Three Mile bayou out into the sea about Door point and San
island and Brush island and down in that country?
A. Do you mean to go down into the marsh?
Q. Yes sir.
A. Do you mean what draft?
Q. Yes sir.
A. I have run a schooner through with about 150 barrels of
ters on board, drawing three and a half feet.
1605 Q. What course did you take?
A. It is generally northeast all the way through.
steered about south southeast to get through the Karakos and
up north east.
Q. Through Three Mile bayou?
A. Through Three Mile bayou into the marsh?
Q. Yes.
A. I come out to what they call Deep Water point.
Q. Where is that?
A. It sets about north east also.
Q. Through Three Mile bayou?
A. Yes sir, coming out that way through the marsh.
Q. How long have you been knowing that marsh?
A. I have been knowing that marsh ever since I can remembe
Q. What has it been called?
A. I have always heard it called Grand marsh.
Q. Did you ever hear it called the Louisiana marsh?
A. Well I have heard it called Louisiana marsh about two yea
to my knowledge.
Q. Before that time it was called what?
A. Grand marsh.

Cross-examination.

By Mr. DYMOND:

Q. You never heard it called Mississippi marsh, did you?
A. No sir.
Q. Now when you were freighting oysters was not it the custom
of the big boats like you were on to lay in the mouth of Three Mile
bayou and wait for the little boats to come there and deliver their
loads to you?
A. Yes sir, not in the mouth. From one half to three quarters
of a mile inside.
Q. Is it not a fact that the freight boats did not go further out
into the marsh. That they lay as you say less than a half a mile
on the inside of the marsh. Take these boats that Dunbar and
Ducate and Lopez had. Are not they accustomed to lay less than
half a mile on the inside of the mouth of the bayou?
A. Well that is customary, yes sir.
Q. When you spoke of going through with a boat drawing three

and a half feet of water. You referred to Deep Water point. Is not that also called Deep pass?

A. Well they have different names for it. We have always called it Deep Water point.

Q. Is that not just south of Brush island?

A. Yes sir.

Q. And that is on the course east from Raccoon island, is not it?

A. Yes sir.

Q. Well now you state that it was north east. Where did you get the idea that it was north east Captain?

A. I mean sailing from the coast.

Q. You mean that when you left Deep Water pass that you have to sail north east to get to the coast?

A. Yes sir.

Q. You sailed east up this way, did you?

A. Yes sir.

Q. Now the boats that usually fish in the marshes. They were small boats so far as the draft was concerned?

A. Some are small draft, but as a general thing the boats would run into the marsh for good oysters. As a general run of the boats none of them drew any less than my recollection is three feet. Since we have had these canning factories of course the canning factories have made smaller draft barges and run them in there.

Q. Those boats can not go through the marshes?

A. Yes sir, if you know your route you can go through the marshes with a boat drawing three or three and a half feet of water, all through there but you have to know your road.

1606 Q. When did you first start in the oyster business?

A. In 1870.

Q. At that time where did you fish mostly?

A. Mostly in the Grand pass.

Q. Did not you ever fish around here at Back bay and at any of these reefs in this locality?

A. Yes sir.

Q. How were the oysters then in 1870 in this locality. Were there many of them?

A. Yes sir, there was a right smart of them.

Q. What sort of trade did you supply with these oysters?

A. We fished for the Mobile market and would also fish and take a load to New Orleans.

Q. There were no canning factories here then were there?

A. No sir.

Q. What was it that caused you to start fishing over there in what you call the Grand marsh?

A. We went out there fishing and found the oysters plentiful.

Q. You did not have to work so hard to get a certain amount of oysters?

A. No sir.

Q. Well now you saw boats from the old basin and other pl in there fishing also?

A. Yes sir.

Q. Did any one stop you from fishing there when you were f ing out there in the marsh?

A. No sir.

Q. When was the last time that you fished out there Captain?

A. Well it has been according to my recollection about ten ye ago.

Q. Well now you say that you think that it is about two ye ago that this place was first called Louisiana marshes? Are y not mistaken about that and has it not been longer than that it h been called Louisiana marshes?

A. No sir, not to my recollection.

Q. If you have not been there for ten years how do you know th it has only been two years that it has been called that?

A. Well that is the general talk when they originated this licen business.

Q. Was not it called Louisiana marshes before this license busine was started?

A. Not to my recollection, no sir.

Q. How do you account for the fact that the lawyers for Missi sippi admitted that it was called Louisiana marshes?

A. I could not say sir.

Q. How do you account for the fact that the witnesses on thi stand who have testified this morning; Mississippians say that t their knowledge it has been called the Louisiana marshes for ten years?

A. I have not heard it.

Q. You just simply have not heard it?

A. No sir.

Q. Now, Captain as a matter of fact have not you fished in Drum bay?

A. Yes sir.

Q. Did you consider that you were in Mississippi when you were fishing in Drum bay?

A. We considered that we were fishing in Mississippi waters, yes sir.

Q. You don't know whether Drum bay is within 18 miles from the Mississippi shore or not do you?

A. No sir, I have not measured it and I could not tell you that.

Q. You fished at Martins island?

A. Yes sir.

Q. You thought that you were fishing in Mississippi then?

A. Yes sir.

Q. Well now Captain is it not a fact that you never did consider whether you were fishing in Mississippi or not. That never came up for you to consider it. Nobody never disputed it with you down

there and said that you were not in Mississippi and must stop fishing?

A. No sir.

Q. Is it not a fact that you never had that question to come up in any way at all to make you say positively that you were not
1607 in Mississippi?

A. No sir.

Q. Well now did the thing ever come up in any way to make it necessary for you to determine whether you were or whether you were not in Mississippi?

A. No sir.

Q. You say when you fished in Drum bay you thought you were in Mississippi?

A. Yes sir.

Q. Well now let's look for a moment Captain at this map which is called Mississippi "A" attached to the testimony of W. K. M. Ducate, and I will ask you to look at this red ink line which is called the Mississippi line?

A. Yes sir.

Q. And I will ask you to see whether Drum bay is north or south of the red ink line?

A. It is south.

Q. I will ask you to look at Martin island and see whether that is north or south of that red ink line?

A. It is south according to that line.

Q. It is what?

A. It is south.

Q. Well now if the 18 mile line is represented by this red ink line, if that is the end of the Mississippi line, then when you were fishing in Drum bay and at Martins island were you or were you not fishing in the State of Mississippi?

A. We always thought we were fishing in Mississippi but according to that business there it looks like we were not.

Q. Well is it not a fact Captain that there was not any boundary line or post down there or any thing of that sort so that you could not really tell whether you were or were not in the State of Mississippi?

A. I could not say no sir.

Redirect examination.

By Gen. McCLURG:

Q. Your attention was called to this map south of the Mississippi line and you were asked whether any measurement had been taken or any line had been marked out?

A. No sir.

Q. Did you see any marks or posts indicating where the southern boundary was?

A. No sir.

Q. You supposed that you were within 18 miles of the Mississippi shore?

A. Yes sir.

J. S. CATCHOT, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLURG:

Q. How old are you?

A. I am going on 44 years old.

Q. Where do you live?

A. At Ocean Springs.

Q. How long have you lived there?

A. All of my life. I was born and raised there.

Q. What is your present business?

A. The oyster business.

Q. How long have you been in the oyster business?

A. Since I was a child.

Q. Where have you been taking oysters?

1608 A. The most of my oysters I have taken since 1869 was from the Grand Louisiana marsh, and Cat island. I have been in the oyster shipping business and shipping in Alabama.

Q. When you were taking oysters down there in what State were you?

A. Well we were taking the most of them from Louisiana marsh. Getting most of our oysters from Louisiana marsh.

Q. Where did you carry them?

A. To Ocean Springs. Most of our business was shipping oysters. Alabama, Tennessee and Georgia.

Q. Did you ship raw oysters?

A. Yes sir, we got them for the shops around here. The local use.

Q. Why did you go down to the marshes to get them?

A. I had not been out there very much, but we had boats running them. We had as high as seven or eight schooners, or twelve, running oysters.

Q. How often did you go out there yourself?

A. My first visit in the Louisiana marshes was in 1874. I had a schooner of my own, not of my own, but my father rented a schooner from Mr. Nelson by the name of Effie May. My father built a schooner afterwards and I went out there running oysters at Creole gap and Grand pass, and I have gone as far as what they call Cranetown pass down there.

Q. What sort of boats did you go in there in?

A. Boats carrying 150 barrels of oysters.

Q. What draft?

A. Light draft. Drawing about three feet or three and a half at the most.

Q. Did you ever go through Three Mile bayou?
A. I don't know much about Three Mile bayou. I have been out in the Grand marsh a great many times.
Q. Did you ever go through Grand pass?
A. Yes sir, I have fished oysters there many a time.
Q. How deep did your boat draw?
A. My boat never drew over three and a half feet of water.
Q. Did you ever go through Johnson bayou?
A. I think I have but I would not state.
Q. Have you ever been through Turkey bayou?
A. I could not state. I might have been but I don't know.
Q. Have you ever been in the Karakos?
A. Yes sir.
Q. How deep did your boat draw through there?
A. Well I could go through there with a boat drawing three feet of water or three and a half.
Q. Were you ever in Indian Mound bay?
A. No sir.
Q. Drum bay?
A. No sir, I could not state.
Q. You have been about Bayou Greecue?
A. Yes sir.
Q. How deep was your boat drawing there?
A. I could go in Bayou Greecue in some places drawing ten feet of water.
Q. I am talking about going through it?
A. I could go through there all right.
Q. At what draft?
A. At three and a half feet yes sir.

Cross-examination.

By Mr. Dymond:

Q. What was the name that you knew the marshes to be called by?
A. Well sir, I have known those places that I have been at there. There is Creole gap and Grand pass and Karako bay, and Cranetown pass and Brush island and Martin island. I have been as far down as what they call Martin island.
Q. Was this in Louisiana or Mississippi?
A. It was in Louisiana. Yes sir, I think it was. It was pretty far down south. Now I will tell you. I don't know much about Louisiana and Mississippi boundary, but it was stated it was Louisiana. It was pretty far down. I was never a great oyster man to say running schooners and making a living out of them. I
1609 was in the oyster business, shipping oysters and buying them.
Q. Is it not a fact Captain that you understood that these oysters were coming from the Louisiana marshes?

A. Well now the men would state that.

Q. They would tell you that they were getting oysters from the Louisiana marshes?

A. Yes sir, and you see why. You see all of these shell banks from Cat island were considered in the State of Mississippi, and down 25 miles down they called it the Louisiana marshes oysters. But to know about this business I am ignorant of it.

Q. Now these Louisiana marsh oysters. Did they not come from Karako bay?

A. Yes sir.

Q. And Three Mile bayou and Grand pass?

A. Yes sir.

Q. In fact all of the oysters that they caught down there in the marshes were better oysters for your shuck business than the oysters gotten out here on the reefs?

A. Oh my God, yes sir, those were finer oysters.

Q. You had to go there to get them?

A. Yes sir, and without those oysters—I will tell you my friend, the people are in need of them, because they are the best oysters. The shell bank oysters are no circumstance to the Louisiana marsh oysters, and there are millions of barrels of oysters in these Louisiana marshes. They will never destroy them in hundreds and hundreds of years to come. Cull the oysters and throw the shells back. Mississippi or any other State can go there and catch for 100 years and never destroy them. There will always be oysters there. There are oysters there for centuries and centuries and they never could destroy them for hundreds and hundreds of years to come. Mississippi or any other State could not destroy them I am going to get me a schooner and go there and catch me a load of oysters, and they can put me in jail if they want to.

Q. When did I understand you to say that you were going down there to get them?

A. I don't know when. I don't know when. I say if I ever take a notion to.

Q. If you take a notion you are going there to get your oysters whether they put you in jail or not?

A. I made my first visit there in 1874. I fished there in 1874, 1875 and 1876 and 1878. I went out and got a load of oysters in the marsh in 1880, 1881 and 1882.

Q. You don't believe that one State has the right to use that place down there and say that another State can not go in there and fish?

A. I will tell you if I could vote a few times on that. I would say that I would try and prohibit it. I would say let's go there and be friends and catch oysters. It is some thing that grows and increases. You know there is nothing on the face of the earth that increases like oysters.

Q. You do not think that one State ought to stop another State from fishing in there?

A. No sir, Louisiana ought not to stop Mississippi from going in there, because they could go in there and catch oysters year after year. I know men that have been fishing in the marsh before the war and after the war, and they fished up to the time that the laws of Louisiana prohibited them from going in there. It is ridiculous.
Q. You think that is all wrong?
A. It is wrong and very wrong. It should be stopped sir.

Redirect examination.

By Gen. McClurg:

Q Did you ever see a whale down there?
A. No sir, I never saw a whale there.

The commission here adjourned until tomorrow morning at nine o'clock.

1610 Tuesday Morning, June 14th, 1904.

The commission met this morning at 9 o'clock. There were present Col. F. C. Zacharie, representing the State of Louisiana as counsel, and Gen. Monroe McClurg, and Hon. J. N. Flowers, on the part of the State of Mississippi as counsel, and Hon. William D. Bullard, commissioner.

Z. T. Champlin, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McClurg:

Q. How old are you Mr. Champlin?
A. 57 years old.
Q. Where do you reside?
A. In Biloxi, Miss.
Q. How long have you resided in Biloxi?
A. 17 years.
Q. Do you hold any office in this county?
A. Yes sir.
Q. What office is it?
A. Justice of the peace and county administrator.
Q. This is Harrison county?
A. Yes sir.
Q. What district?
A. District No. 1.
Q. Of Harrison county?
A. Of Harrison county.
Q. How long have you held that office?
A. A little over 16 years. Going on 17 years.
Q. This is an office of record?
A. Yes sir.

Q. And it uses no seal?

A. It uses no seal.

Q. It has jurisdiction of civil matters within a certain limit, a final jurisdiction of misdemeanors under the laws of this State?

A. Yes sir.

Q. And has had during the whole time that you have been ju tice of the peace?

A. Yes sir, the whole time, 16½ years.

Q. Are the books and records of this office in your keeping?

A. Yes sir.

Q. I have here a certificate signed by you on the 14th day of Jun 1904 certifying to the correctness of final judgments entered b you on the 14th of March 1890 against divers persons for market ing unculled oysters to-wit: —— Miller, —— Fulford, M. Edwards J. Pervisich, Capt. Strong, Marco Ladina, Dominick Dulcich, John Baker, M. Bagatella, Emile Borsorge, George Smee, R. B. Galloway John Raymond, Jack Covacovitch, John McAdy, Capt. Raymond, Tony Bonacich. I will ask you to state whether you have ex amined and compared these certificates with the original entries made by you on your docket and see whether they are correct?

A. I have compared them and found them correct.

Q. I notice in your certificate that you say that you have made search for the affidavit and other papers accompanying these rec ords and have not been able to find them. Is that correct?

A. Yes sir, I have. It has been so long ago since they were made.

Q. Your docket shows the charges against these several persons "The marketing of unculled oysters," but the docket fails to dis close where the offense was committed. I will ask you to state whether the affidavit or warrant made any specific statement other than in the county as to the commission of the offence?

1611 A. No sir, the affidavit only states that it occurred within my county.

Q. Have you any personal knowledge as to where these offences occurred?

A. All that I know is they were here in *in* this district. Right here in the city of Biloxi or in this neighborhood that the oysters were unculled. That is the violation of the law. To market them in that way.

Q. I notice here on your certificate it is noted "In channel, wharf unloading, in front of Lopez factory" and memoranda like that. What does that mean?

A. I think that it is merely to indicate where they were at the time they were arrested by the officers or as a memoranda for the officers to locate them. Perhaps the man who made the affidavit told that. I have no recollection about that.

Q. As to the place where they got these oysters have you any personal knowledge?

A. None in the world.

By Gen. McCLURG: Counsel for Mississippi here now offers to introduce in evidence the certified copies of the records above mentioned, and furnishes to the counsel for the State of Louisiana a true copy of the same. The records now offered in evidence are marked Mississippi Document No. 23.

Q. I have here also Mr. Chamberlin copies made from your docket of final judgments, one in the case of The State of Mississippi *vs.* M. Bagatella, for violating oyster ordinance of Harrison county, in which you imposed a fine of ten dollars and costs, and also the case of The State of Mississippi *vs.* Jake Stanovitch for violating the oyster ordinance of Harrison county Miss. in which you fine- him ten dollars and the costs. Those two cases were tried it seems on the 20th of January, 1894, upon affidavits filed on the 27th of November 1893. I also have a copy from your docket in the case of The State of Mississippi *vs.* John Bowen charged with resisting arrest, affidavit filed December 22nd, 1893, and final judgment entered on February 17th, 1894, upon a verdict of the jury acquitting him. I wish you would please see if you have compared these certificates with the original entries on your docket to see whether they were correct?

A. I have compared them and found them correct.

Q. I notice in your certificate that you say that you have made diligent search for the affidavit and other papers in your office and all places where they are usually kept or likely to be found and that you have been unable to find them?

A. That is so.

Q. Have you any personal knowledge as to where these violations of the ordinances of Harrison county occurred?

A. Nothing except that they were in my county. Nothing more than they are on the record. No personal knowledge at all. I have a recollection of the Bowen case.

Q. The case against John Bowen for resisting arrest, you have the same certificate, not being able to find the affidavit and warrant and other papers?

A. Yes sir.

Q. Have you any personal knowledge as to the place where that offense was alleged to have been committed?

A. I have a recollection as to where it occurred. It was said to have occurred in the evidence before me to the best of my recollection now that it occurred some where below Grand pass or Sundown island or some where down in there.

By Col. ZACHARIE:

Q. You have no personal knowledge of it?

A. No sir, no personal knowledge except that the evidence was before me.

By Col. ZACHARIE: This evidence is objected to on the part of

the State of Louisiana for the reason that this is mere hear-
1612 say evidence, and can not be admitted even as secondary evidence under the circumstances detailed by the witness.

By Gen. McCLURG: Counsel for the State of Mississippi here produces and offers in evidence on the part of said State the certified documents being transcribed from the docket of Z. T. Champlin, justice of the peace, in the cases of The State of Mississippi vs. M. Bagatella, Jake Stanovitch, and John Bowen and furnishes the counsel for the State of Louisiana a copy of the same, and marked Mississippi Document No. 24.

Q. I understood you to say that you had been holding the office of justice of the peace for district No. 1, of Harrison county, Mississippi for nearly 17 years, and that you have been exercising jurisdiction as shown by the certificates which have been taken from your dockets and certified by you to some extent on the waters of the Mississippi sound. I will ask you to please state how far to the southward of the Mississippi shore line you have exercised jurisdiction during the time that you have been holding office?

A. A distance of six leagues from the main shore.

Q. Where is that if you know. The southern boundary of the State of Mississippi?

A. The southern boundary of the State of Mississippi. Do you mean to locate the place?

Q. No?

A. It would be six leagues or 18 miles from the main shore line of the State of Mississippi. I have always considered that my jurisdiction was 18 miles due south. In fact I have exercised it often as far as Ship island until I was stopped by the Supreme Court deciding that the United States had jurisdiction of that island, and within one mile of the waters surrounding it. Then I have gone as far east of here as Grand pass.

Q. Did you ever go any further than Grand pass?

A. That is considered the limits of Harrison county.

Q. What county to the westward of Harrison county?

A. That is Hancock county.

Q. I will ask you to look at the map Exhibit "A," exhibited with Mississippi's answer and cross bill and see if you can find Grand pass on the map?

A. Yes sir, here is Grand pass (the witness shows the location on the map).

Q. And Sundown island?

A. Yes sir, this is Sundown island. This is about the place where Bowen is said to have committed the offense for which I tried him.

By Col. ZACHARIE: The same objection is entered on the part of the State of Louisiana in regard to hearsay testimony as was entered above.

Q. About how far is it from the Mississippi shore about the center of Bay St. Louis to Sundown island?

A. Well I don't know only approximately. I would judge that it was 14 or 15 miles or some thing like that.

By Col. ZACHARIE:

Q. You have never been there?

A. No sir. I have never been to these islands.

By Gen. McCLURG:

Q. Have you ever been on Isle à Pitre?

A. No sir, I never have been on it.

Q. Did you know Mr. James B. Holly in his lifetime? The justice of the peace?

A. I knew the justice of the peace, but it does not seem to me that that was his name. It is L. B. Holly.

Q. L. B. Holly. Yes sir, that was his name.

A. Yes sir, Lyman Holly was his name. I knew him.

Q. What office did he hold if any?

A. The office of justice of the peace of district No. 1. This district.

1613 Q. When?

A. My recollection is that he was holding the office of justice of the peace when I came here in 1887.

Q. Whom did you succeed to that office?

A. I succeeded W. M. Jordan, because I believe Holly was elected with me that year. We are entitled to two justices of the peace in this district. I think that he was elected with me and Jordan was the one that went out. One of these dockets is Jordan's docket that he handed to me when he went out.

Q. Where is L. B. Holly?

A. He has been dead for some years.

Q. Where is Jordan, the other justice of the peace that you spoke of?

A. He also is dead. Has been for a number of years.

Q. Can you say whether or not these officers exercised jurisdiction to the same extent that you have been exercising it since that time?

A. Well I can not say except, I know of no particular instance where they exercised it, except that it was thoroughly understood that our jurisdiction was as I have stated it.

Q. You have no personal knowledge about it?

A. No sir, I have no recollection of where they exercised it.

Q. I will ask you this question. What the general understanding of the public was, has been in and about Biloxi and within your district as to the southern boundary line of the State of Mississippi, and Harrison county?

A. The general understanding of the public, deriving it from the description of the boundary of Harrison county, is that it takes in

18 miles south or six leagues south of the main shore, includ islands within that distance. It has always been so, and few years ago I never heard a contradiction of that question.

Q. About how many years ago, Captain?

A. Well I would say six or eight years ago. I do not rem exactly.

Q. Mr. John Bowen is the man here that you tried for res an officer?

A. Yes sir.

Q. Is this the gentleman that is present here now?

A. Yes sir, that is the gentleman over there. He is Capt. Bowen.

Q. That is the man whom you tried as certified to by you i record, which we have introduced in evidence here?

A. The same man, yes sir.

Cross-examination.

By Col. ZACHARIE:

Q. Mr. Chamberlin, in all of these cases which you say brought before you, these first cases alluded to in the certific first offered by the counsel for the State of Mississippi. The offe charged was for marketing unculled oysters was not it?

A. Yes sir.

Q. Now I see here "In channel, unloading, in front of Lopez' tory." Those parties were committing those offences in the im diate vicinity of Biloxi were not they?

A. Yes sir.

Q. Now I see in some of them that the State failed to lay t venue. What does that entry mean?

A. It failed to show that it occurred in my district, district No. of Harrison county. It did not show where it was. If you wi pardon me right here it has occurred to me that those entries wi show that when they were out there getting the oysters they we not committing any offense. The statute seems to be marketin them. The mere having them in possession would not be a viola tion of the law.

Q. What do you mean in there by channel. That is the channe in front of Biloxi?

A. Yes sir, out in front of Biloxi. I see here one time i
1614 says unloading. He made the trade at that time and was marketing his oysters.

Q. Do I understand that these entries that are here as they appear here are exact transcripts of what appears on your minutes?

A. Exactly what appears on my dockets word for word.

Q. There are no papers or documents connected with these suits?

A. I have none. I have made a diligent search for them, but on account of the changes and the time that has elapsed I have been unable to find any of them.

Q. Now will you please explain what you mean by district No. 1. Is Harrison county divided into districts?

A. Yes sir, Harrison county is divided into three districts fronting the shore line. The coast. District No. 1 runs from the eastern limits of Harrison county to what is known as Beauvoir, which is west of us, and then there commenced district No. 2. It runs north between parallel lines you know, then from Beauvoir district No. 2 commences, and I believe it is my understanding that it runs to about Long Beach on the coast. Then No. 3 commences to run and goes to the western limits of Harrison county.

Q. That is to Bay St. Louis?

A. To the center of the draw bridge at Bay St. Louis

Q. I notice in the case of Bagatella, as it is mentioned in what purports to be a transcript here, that it is a general charge of violating the oyster ordinance of Harrison county, Mississippi. What was the specific violation?

A. Just now I could not tell you. I would have supposed that the affidavit would have stated in what way he violated it, but I have no recollection as there was the usual ordinance passed and I was enforcing it.

Q. You could not tell the locality where the violation took place?

A. No sir, except that it was within my county.

Q. Now in the case of Stanovitch. Do you recollect what was the particular offence?

A. No sir, I don't remember. Just as in the other case.

Q. Now in regard to John Bowen. As I understand your testimony in chief he was charged with resisting an officer?

A. Yes sir.

Q. And you testified merely from hearsay that it occurred at Grand pass?

A. Yes sir, I said near Grand pass. I think that it occurred somewhere about Sun Down island, or between Sundown island and Grand pass. That is my recollection. I remember having the map there, or rather a chart of the coast. Not exactly a map because it showed the depth of the water and everything of that kind. I had that in my court at the time the case was tried.

Q. Now will you please examine this map Mississippi Exhibit A, and say run a line due south from Bay St. Louis. Would not both Sun Down island and Grand pass both fall without your jurisdiction and within the jurisdiction of the justice of the peace of the third district, if it was at all within the jurisdiction of Mississippi. You will notice on this map where Bay St. Louis is?

A. Yes sir.

Q. Now run this south line down there?

A. The south line would come over in and take in the west ward of Grand pass down there.

Q. Would not they fall then, both Sun Down island and Grand pass. Would not they fall outside of your jurisdiction?

A. I am a conservator of the peace for the whole county. I can try cases where it occurs outside of my own district.

Q. As I understand you as the justice of the peace, *has* general jurisdiction over the whole country?

A. Yes sir.

Q. What does that extend to, misdemeanors?

A. Yes sir, misdemeanors.

1615 Q. Do you remember what was the character of the resistence — the officer. Was there a warrant issued?

A. Yes sir.

Q. What for?

A. For resisting arrest.

Q. Oh I mean what was the original offence?

A. No sir, I have no recollection of that at all. I have no recollection outside of what the record shows, except the fact where it occurred and that I recollect from the use of the map to locate it.

Q. Well now, what time were you inducted into office? First as justice of the peace?

A. January 1st, 1888.

Q. January 1st, 1888?

A. Yes sir.

Q. Had you been residing in Biloxi before and if so how long?

A. I moved to Biloxi in March 1887, and was elected justice of the peace at the November election following, and have held the office continually since.

Q. Well now you were asked the question in your examination in chief by the counsel for Mississippi as to the general public opinion as to the southern boundary line of the State of Mississippi and you answered to that question that you had always considered the boundary as extending six leagues of 18 miles south of the main shore. Now is it or is it not a fact that this marsh territory to the southern has been from time immemorial, as far back as you can remember, considered a portion of Louisiana and a portion of the parish of St. Bernard?

A. No sir, I don't know that to be a fact.

Q. I am speaking of the general understanding?

A. I think if you will look at my answer I stated that the general understanding of the public was that the Mississippi territory extended that far.

Q. Well now is it or is it not a fact that those marshes over there were generally called both amongst the fishermen and others the Louisiana marshes?

A. Well I have heard them called both Louisiana marsh and Grand marsh.

Q. Is it not a fact that the more general appellation was Louisiana marsh?

A. Well I don't know just which one was called Louisiana marsh. It might have been the southern portion of them and it might have been the northern portion of them.

Q. I am speaking of the generic name for the whole of these low lying marshes over there. Has it or has it not been the general expression when the mosquitoes got bad on this coast, that they would say that they came from the winds bringing them from the Louisiana marshes?

A. I have heard that many a time. There is no question about that.

Q. I understood you to say in your examination in chief that you personally did not know where this Mr. Bowen resisted arrest?

A. No sir, personally I know nothing of it at all. All that I know is what my records disclose, and my memory that the question of jurisdiction was brought up and I decided that it was in my jurisdiction.

Q. As magistrate have you or have you not derived your idea of the boundary, of the southern boundary of the State of Mississippi from the inspection of an act admitting Mississippi into the Union in 1817, and also from the boundaries laid down in the Mississippi laws?

A. That is what I have worked on. That is my authority.

Q. Did you ever take into consideration the fact that in the act admitting Louisiana into the Union five years prior to the admission of Mississippi; that is Louisiana was admitted in 1812 and Mississippi was admitted in 1817. Did you ever take into consideration that the prior act admitting Louisiana gave Louisiana all islands within three leagues or nine miles of her coast?

A. Yes sir, I have always taken that into consideration and
1617 believed that Congress when it made that allowance had reference to her southern coast entirely. I never did believe that they had any thought of the northern coast of Louisiana. I believe that it has reference entirely to the south coast of Louisiana just as it did to the south coast of Mississippi, and the south coast of Alabama and the south coast of Florida.

Q. Did you ever take into consideration in arriving at that opinion that the geography of this country was very little known and that Congress unintentionally brought about a conflict there?

A. I don't know whether they did it intentionally or otherwise. I never thought that Congress understood that Louisiana had a north coast. When she gave her that boundary she had reference entirely to her southern boundary and not her northern boundary. This part that is in dispute would seem then to be the north part of St. Bernard parish. That would give her a northern as well as a southern boundary down there. That would give her a double boundary down there. Nine leagues on the northern shore as well as nine leagues on the southern shore.

Q. Have you ever known any effort on the part of the Mississippi authorities to collect any taxes over in the disputed territory in the marshes?

A. No sir.

A. No sir.

Q. You never have?

A. I never have.

Q. Do you know whether any portion of that property there is assessed on the tax rolls of Harrison or Hancock counties?

A. No, sir, I know nothing about it.

Q. Do you know whether the islands north of the coast between the Mississippi main land and that coast have ever been assessed in any county or any effort made to collect the taxes?

A. No sir, I do not, no sir.

Q. I thought you said that you had never visited this territory?

A. I never have. The nearest I suppose I was ever to it was three or four miles. I have been out there with the steam dredge.

Q. Is there such a thing as a printed regulation or rules of the board of supervisors. Oyster supervisors, or what is the name that you call it?

A. The supervisors of Harrison county. They pass ordinances and have them entered upon their minutes as a record, and I believe that in some instances they have them in a printed pamphlet form. I have a recollection of having seen some of them but I have none of them now.

Q. Where do you think that a copy could be procured up to date?

A. I should think that the Biloxi Herald might have copies of them. You know that they have been nearly all of the time in the county paper, and published all of the proceedings, and I know that some of their ordinances have been printed. Their road ordinances and such as that.

Q. Now if it be a fact as you have stated that to a considerable extent this marsh territory in dispute was called the Louisiana marshes, how do you reconcile that with the statement that you have made that it was only six or eight years ago that the question was ever agitated as to this disputed territory belonging to Louisiana?

A. Simply because I did not know whether these marshes are within the limits of what I concluded to be Harrison county or any county 2. I did not know. These marshes may be the other side. These are islands out there and the Louisiana marshes may still be to the southward of that, but I don't know about that because I have never been there. I don't know really what are called the marshes.

Q. Will you please examine this Mississippi Exhibit A to which your attention has been called, and you see these red lines delineated as Mississippi's claim?

A. Yes sir.

Q. Now then that broken mass of marshes and islands and
1617 water delineated there within these red lines. Are those the marshes that have been alluded to and only spoken of as the Louisiana marshes?

A. That I could not say. I never have been there. I would call this Isle à Pitre and I do not know whether there is a marsh on it.

ve been there at all and I don't know whether these
oken are of are to the southward and on a line with
or whether they are further up here. I don't know any-
t it as I never have been there. Here on this map it
islands.

as a matter of fact, Mr. Chamberlin, although you per-
a magistrate might have read the laws of Mississippi
admitting the State of Mississippi into the Union, has
been any question or discussion amongst the people
regard to the southern boundary of Mississippi extend-
marshes until this controversy arose?
always been understood that Mississippi owned all of
within six leagues of the main shore of Mississippi.
ore of Jackson, Harrison and Hancock counties.
u ever hear the matter discussed among the generality
e prior to this suit?
heard it discussed, but I could not say how much. I
has been mooted in my court. We have had the maps
o prove my jurisdiction down there.
y that you went into office in 1888?
y 1st, 1888.
u ever hear it discussed or mooted prior to 1888?
because I was here only a short while. As short as I
be elected justice of the peace.
did you live before you came to Biloxi?
here from Centerville, Miss.
ou know nothing about what people said about it prior

l only might have heard it when I was here six or
s before I was elected justice of the peace.
know Mr. Champlin when for the first time the legis-
State of Mississippi ever fixed the southern boundary
ounty, first included all of the islands and territory
gues of the Mississippi main land?
l could not say.
ver examined it to see?
never examined the matter.
your occupation now?
f the peace, county administrator and notary public
interested in the oyster industry in any way?
ot in the least particle, except as all others are in-
now.
hat is no part of your business?
art of my business at all. I have not any interest in
ll. No business with them. It is very seldom that

e only the common interest?
he common interest.
ng this territory?

Redirect examination.

By Gen. McCLURG:

Q. You answered Louisiana's counsel awhile ago that Mississippi had never collected any taxes in this disputed territory. I suppose you had reference to ad valorem taxes. Can you say whether she ever collected any revenue taxes in this territory?

A. She has collected the oyster taxes. That is all that I know of. I know of her collecting the oyster taxes.

Q. Since when?

A. In the last two years. She collected a license I think. Some of those fellows that I have got there. Some of those fellows
1618 were perhaps for not procuring a license. I don't know just what it was, and the records don't show, but I expect it was for a failure to procure a license.

Q. The cases here for violating the ordinances of Mississippi might have been for that?

A. Yes sir, it might have been for that It might have been for that I could not say.

Q. In 1887 when you were elected was before the constitution of 1890?

A. Yes sir.

Q. And you were not disqualified under that law?

A. No sir.

Recross-examination.

By Col. ZACHARIE:

Q. So far as you are concerned you know of no other prosecution for violating the oyster laws or oyster regulations of the county of Harrison prior to March 14th, 1900? That is the date given here in your transcript?

A. I don't think I know of any prior to that.

Q. That is two years after your induction into office?

A. Yes sir, I have no recollection of any prior to that.

Redirect examination.

By Gen. McCLUEG:

Q. In that connection you spoke of some cases as to the question in which the southern boundary line of the State was involved and in which you had the maps before you?

A. Yes sir.

Q. About when was this?

A. I have been raking my brain to find just exactly. I have just about come to the conclusion that it was during the trial of John Bowen that we had the maps so as to show that we had jurisdiction over it. Whether it occurred in the county of Harrison. I may be mistaken in that.

Recross-examination.

By Col. ZACHARIE:

. Your record shows that this case was tried on February 17th, 4, that is in the Bowen case?
. Yes sir.
. That is correct, is it?
. Yes sir.

OHN BOWEN, a witness introduced on behalf of the State of sissippi, being duly sworn, testified as follows:—

By Gen. MCCLURG:

. Mr. Bowen were you ever tried before Squire J. T. Champlin?
. Yes sir.
. For resisting an officer?
. Yes sir.
. The record shows that the trial of John Bowen was had before on the 17th day of February 1894, upon an affidavit filed on ember 22nd, 1893?
A. Yes sir.
Q. Are you that man?
A. Yes sir.
. Where was it that you are charged with having resisted an er?
. Between Grand pass and Sundown island.
. Between Grand pass and Sundown island?
. Yes sir.
. In what State?
. Mississippi.
. What county?
. I suppose that it was Harrison county. I don't know much it the counties. I was tried in Pass Christian before Judge Espy he offense.
. What officer did you resist?
. Placida Lazana.
. What were you doing?
. Taking oysters sir.
. Were you tried for any other offense at about that time at that e?
. For taking oysters without a license I was tried for.
. Where were you tried for that?
. Before Judge Espy at Pass Christian. He is the collector of oms at Bay St. Louis now.
. For fishing oysters between the mouth of Grand pass and Sun- n island?
. Yes sir.
. Without a license from Mississippi?
. Yes sir.

Q. When was this?
A. In 1893 in November.
Q. Pass Christian is in what State?
A. The State of Mississippi.

Cross-examination.

By Col. ZACHARIE:

Q. What was the result of the trial before Judge Espy in November 1893?
A. I got clear by getting a license from Mississippi City to fish oysters.
Q. Now when were you arrested for resisting an officer?
A. In February 1894.
Q. Will you please state the circumstances of your resisting an officer and tell us what occurred?

By Gen. MCCLURG: The counsel objects on behalf of the State of Mississippi on the ground of irrelevancy.

A. When he came out aboard the schooner where I was I did not even know that he was an officer, or had any authority to arrest me out there in the first place. I did not know who he was.
Q. Did he exhibit a warrant?
A. No sir.
Q. Who was he, do you know?
A. That gentlemen there. Mr. Lazana.
Q. What official position did he occupy?
A. It seems that he had been appointed for that purpose. To arrest if they fished oysters without a license, but I did not know he was the one that was appointed. *I* man named Young was before that.
Q. Why did you resist his arrest?
A. The same that I would resist any one else that I did not think had any authority to take me out of a schooner.
Q. Now Mr. Bowen, did you not resist that arrest because you thought you were in Louisiana territory?
A. No sir, I did not.
1620 Q. Did you believe that you were within the jurisdiction of Harrison county and the State of Mississippi?
A. Well I did not think much about it, but I was satisfied that I was in the State of Mississippi, and it did not bother me much at that time what county I was in. In fact I never thought of it.
Q. What was that marsh country over there generally called amongst the fishermen?
A. Well some years ago when I first went there they generally called it the Grand marsh. That is about 1893, but the last few years it has been called Louisiana marsh.
Q. Was not it prior to 1883 called the Louisiana marshes?

A. I could not say. I was on the upper lakes before that and I don't know what they called it.

Q. Did you ever hear it spoken of as being in the parish of St. Bernard or the State of Louisiana?

A. Which part of the marsh?

Q. I mean the marshes extending from Isle à Pitre westward towards Malheureux point?

A. No sir, too tell you the truth I don't know much about that. I know a good deal about the marshes and through there, but to tell you what parish they are in I don't know any thing like that.

Q. Then you simply resisted this officer because he did not exhibit any warrant and you did not know that he was an officer?

A. I did not know that I was violating any law. I did not feel like letting any body come to a schooner and take me out of a schooner for nothing, and he also wanted to take all of the crew, so I resisted just like I would resist any other private or any thing else coming after me that way.

Q. Where do you live?

A. On Main street in Biloxi. No. 722.

Q. You commenced in this oyster business when?

A. The first time that I went oystering was in the latter part of 1883?

Q. Have you continued since then in the oyster business?

A. Not entirely. I never have been off the coast: Sometimes I have been running lumber to New Orleans.

Q. Are you in the oyster business now?

A. Yes sir, I have been for years.

Q. Who were you supplying with oysters?

A. Almost any body. The steamers that come over here. I run a steamer for a canning factory for three years.

Q. You were employed for three years in one of these canneries?

—. *No sir, we have fished for any of the factories.*

Q. You were employed by the factory running the steam process?

A. No sir.

Q. You were simply supplying oysters to these factories?

A. Yes sir.

Q. Which factory?

A. Any of them. Any of them that would buy them.

Q. That is your means of livelihood. That was your means of supporting yourself?

A. I was running a steamer dredge. The steamer belonged to Mr. Heidenham, but the factory was not open. We were selling oysters to Mr. Lopez and Julien and any body that would buy them.

Redirect examination.

By Mr. McCLURG:

Q. Where did you go and get oysters in this time?

A. At that time we were fishing in the sound. Any where over

here in the sound, from where the oysters commenced down aroun
Cat island. Over there about Grassy island and the mouth of Pea
river.

Q. Did you go out much into Grand pass then?

A. No sir, the steamers were drawing too much water to go ou
there.

Col. ELLIOTT HENDERSON, a witness introduced on behal
1621 of the State of Mississippi, being duly sworn, testified as fol
lows:

By Gen. MCCLURG:

Q. What is your age Colonel?

A. I am 71 years old.

Q. Where do you reside?

A. I reside at Pass Christian.

Q. How long have you been residing there?

A. Well sir I can hardly say. The first recollection I have wa
being a child at Bay St. Louis as a child with my father. He wa
secretary to —— —— grant at Bay St. Louis.

Q. Did your father ever hold any office of any kind in the Stat
of Mississippi?

A. Yes sir, he was United States Senator in 1840.

Q. Have you ever held any official positions since Colonel?

A. Yes sir.

Q. At what place?

A. I was mayor of my town I think for about five years.

Q. What town. Pass Christian?

A. Yes sir.

Q. About what time?

A. I think that it must have been about; I will say between 186
and 1875 or some where along there. I have forgotten the exac
time.

Q. What other positions if any have you held?

A. I was State senator for one term consisting of two years. 188
and 1884, and I was a member of the constitutional convention i
1890.

Q. Now from your childhood where has your home been Colonel

A. My home—I was absent of course—I was partly educated i
the North. I was sent away to school but my home proper ha
always been Pass Christian up to 1859 when I went up on the Mis
sissippi river intending to locate there, and then the war was goin
on in 1860. I was in the army of Virginia for four years and re
turned to Pass Christian and have been there permanently eve
since.

Q. What do you know about the southern boundary lines of th
State of Mississippi?

A. Well of course I know generally that the southern boundar
of the State of Mississippi as long as I can remember, and as a law

yer I had occasion to examine it, has extended six leagues from the southern boundary of the land, the seashore of Harrison, Hancock and Jackson counties.

Q. You know of course that Pearl river is the western boundary?

A. Yes sir, I know that.

Q. Mr. John Walker has testified in this case that he conferred with you at one time with reference to getting an act passed through the legislature authorizing the appointment of bay pilots at the mouth of the Mississippi river, perhaps representing the steamboatmen interested in the business. That you advised him on that subject after investigating the law. Do you remember about that Colonel?

A. I don't remember ever having done so. If I did so at all it must have been either in 1882 or 1884 when I was in Jackson attending the terms of the legislature. It might have occurred because you know those things pass in the daily routine of introducing bills and I might have overlooked it, but if I did advise him at all, if the conversation occurred I would certainly have advised him that it was not within the jurisdiction of the State of Mississippi. That they would have to go to Louisiana because the mouth of the Mississippi is in the State of Louisiana. If that conversation took place. I don't say that it did not. I don't recollect it just now. I know Mr. Walker and have known him for a number years.

Q. I understand you to say as a practitioner of law that you have examined the question as to the limits of the State?

A. Only so far as our constitution and statutes and the
1622 inauguration of the State. That is all I can be governed by.

Q. Were you a member of the old board of police. What is called the board of supervisors of the county now?

A. I never was. I never have been.

Q. Do you know of any civil or criminal jurisdiction that the courts of your county have taken of the waters in front of Harrison county?

A. I happen to remember a case——

By Col. ZACHARIE: The counsel for the State of Louisiana objects to any testimony in regard to any judicial proceedings unless the foundation is first laid by showing that such records have been lost or destroyed, in which event alone can parol evidence be introduced as secondary evidence.

By Gen. MCCLURG: Counsel for Mississippi asked for no proof of the contents of any official record, but merely wanted to draw out from the witness any fact that might lead up to the record, or any knowledge that he had of any judicial act without undertaking to state what the proceedings or result was.

Q. Do you know of any civil or criminal jurisdiction that the courts of your county have taken of the waters in front of Harrison county?

A. It was not a case. The event that I remember particularly

came to me while I was a member of the senate. I was asked to introduce a bill to permit prize fighting in the State of Mississippi and I refused, and then the gentleman who was promoting the enterprise said Very well, if you do not do it we can fight over on Ship island. I remarked to him "Well that is in the jurisdiction of the State of Mississippi. I presume that he looked into it and the fight never took place. I refused to do it I knew that if he had the fight there that it would be in our jurisdiction. I don't know of my own personal knowledge but I am satisfied there was a case in which a man was arrested at Ship island and brought here and tried. For what offense or misdemeanor I don't know.

Q. There is no controversy about Ship island being in Mississippi?

A. Well sir that is one of the islands. So far as their taking control of the waters they have done it, and are doing it now under the oyster commission.

Q. Can you say whether or not in this county, Harrison has ever had any ordinances passed by her board of supervisors regulating the taking of oysters in the sound?

A. Well I know that such have been passed, and I know that we convicted a man, which is previous to the Bowers law, we convicted a man of trespassing upon oysters under the law in Pass Christian.

By Col. ZACHARIE: The counsel for Louisiana renews his objection as made above in the prior objection, in regard to the introduction of primary evidence of the judicial record before the secondary evidence is admissable at all the record must be proven to have been lost or destroyed.

Cross-examination.

By Col. ZACHARIE:

Q. I think you have stated Col. Henderson that you are a practicing attorney and have been for many years?

A. Yes sir, I have been practicing for nearly 36 years.

Q. You have stated that under the statutes of Mississippi you have always regarded the southern boundary of the State of Mississippi as extending six leagues or 18 miles to the south. Have you ever examined the act admitting Louisiana into the Union?

A. I never have no sir.

1623 Q. Have you ever visited the territory in dispute here.

A. This marsh territory. Yes sir, frequently.

Q. Is it or is it not a fact that up to a very recent date that marsh country in dispute here has been generally known as Louisiana marshes?

A. I have always heard them called Louisiana marshes, yes sir.

Q. Is it not a fact that at Pass Christian when the mosquitoes were bad that the common expression is that they come from the Louisiana marshes, meaning this territory in dispute?

A. I cannot say, meaning the territory in dispute, but I will say they come from the Louisiana marshes. As I understand the territory in dispute is not only the Louisiana marshes but the adjacent waters thereto. Now i am directing my answers to the marsh country, which have been marked upon the map as a part of the parish of St. Bernard.

Q. When did you first hear generally of these marshes being claimed as a part of the State of Mississippi. I mean amongst the people at large?

A. Well they were called generally as I say to you the Louisiana marshes but I never have heard that the boundary of the State of Mississippi was disputed, so far as the southern boundary being 18 miles from the adjacent shore. It was necessary to pass through a portion of these marshes and a portion of these marshes would be then included in the southern boundary of Mississippi as I understand it.

Redirect examination.

By Gen. McCLURG:

Q. Have you ever heard these marshes called by any other name?

A. Well I don't know sir. Fishermen are in the habit of going through there, and they will give two or three names to a small island or bayou and things of that sort and it fixes itself to it, and some times it is forgotten and some times it is renewed, but as a general rule these marshes over there were called Louisiana marshes because they were adjacent to the State of Louisiana. How far the Louisiana line came out there we never stopped to inquire.

Original question by agreement.

Q. Col. Henderson, do you know what is usually termed the deep water channel running out of the mouth of Pearl river and the Rigolets through Lake Borgne and around and north of Half Moon island and to the southwest of Cat island?

A. Well sir there is a channel that runs out here, and it comes down here and it branches and runs down by Goose point, but that channel, a good many vessels carrying lumber come on the north side of Cat island, and run up to the light house here and run up Pearl river.

Q. This channel that I speak of runs between Cat island and the point of Isle à Pitre?

A. Yes sir.

Q. In her original bill of complaint Louisiana claims that is the real boundary line between the two States. Have you any knowledge of that?

A. I never heard that contended at any time until I saw some of the testimony in some of the papers.

Q. Is that the first time you ever heard of that?
A. That is the first time I ever heard it contended.

By Mr. FLOWERS:

Q. You mean since this controversy arose?
A. Yes sir, since this controversy. It came out while they were examining the witnesses in Louisiana. I read the reports of the testimony.

1624 Recross-examination.

By Col. ZACHARIE:

Q. I think you stated that you never have read the act admitting the State of Louisiana into the Union?
A. No sir, I never have.
Q. That act says "including all islands within three leagues of the coast?
A. Yes sir.
Q. And the claim I will state to you as a lawyer is not only based upon that, but the rule of international law between States, is that where there is a deep water channel, the jurisdiction of each State extends to the middle of the thread of the channel, but you have never examined it to understand it from that stand point?
A. That is confined to rivers is not it?
Q. It also applied to a number of decisions of international commissions to decide boundaries. The Alaska boundary was decided that way, and also the decision of the Emperor William in the San Juan islands?
A. I will say that if that marsh that we have always called the Louisiana marshes; if the State boundary of Louisiana extends three leagues in a northern direction from that I think it will go pretty near back to Cat island, and would come along over here, because that marsh from over here I don't think it is over 18 or 20 miles, or maybe 25 miles, and therefore I hardly think that such a conflict as that could have occurred, as Mr. Champlin suggested that must have had reference to the southern portion of Louisiana, fronting upon the Moratuie property to the mouth of the Mississippi river. If it was not that their boundary would run up in here.

The commission here took a recess for the noon hour, until 2 o'clock.

The commission reassembled at 2 o'clock with the same presences as this morning, and resumed the taking of evidence as follows:

By Gen. MCCLURG: The counsel on the part of the State of Mississippi now introduces in evidence a certified transcript of the original proceedings. The record and judgment, in the matter of the inquest held by L. B. Holly, justice of the peace at Biloxi, Harrison county, Mississippi, during the latter part of October or the 1st of

November, 1886, over the body of John Kennedy, found at Creole gap. The original copy certified by the circuit clerk of Harrison county being filed as Document No. 25, and a true copy thereof furnished the counsel for the State of Louisiana.

F. P. LIZANA, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. Where do you reside?
A. At Pass Christian, Miss.
Q. How old are you?
A. 45.
Q. What is your occupation?
A. I am now constable and deputy sheriff of Harrison county.
Q. Have you ever had any connection with the oyster laws
1625 of Mississippi?
A. Yes sir, I was appointed by the board of supervisors.
Q. Of what county?
A. Of Harrison county, Mississippi. In 1893 in October.
Q. You were appointed by them to do what?
A. To go out and see that the licenses were obeyed for fishing oysters, and to see that the oysters were properly culled.
Q. What was your office called?
A. It was called oyster inspector.
Q. You were appointed first when?
A. In 1893, right after the October storm. I was appointed on the third day of October and the storm was on the first.
Q. What was your territory?
A. 18 miles. Supposed to be six leagues from the shore.
Q. Running from what points?
A. Supposed to be the eastward point of Chandeleur island running in a westerly direction to the mouth of Pearl river.
Q. That is your territory?
A. Yes sir.
Q. Where did your eastern territory strike the shore line?
A. On Harrison county was supposed to be right on the eastward side of Ship island.
Q. Were you appointed for the whole of the county or a portion of it?
A. The whole county. There was only one inspector.
Q. And the eastern shore of Harrison county is supposed to be where?
A. The eastern shore is right here at the bay of Biloxi. Between Biloxi and Ocean Springs.
Q. And the western shore is at Bay St. Louis?
A. Yes sir.
Q. That is the shore front of Harrison county?

A. Yes sir, a little beyond the draw bridge.

Q. Well as oyster inspector had you authority under the laws of the State of Mississippi to arrest persons violating the laws?

A. Yes sir.

Q. Do you remember to have arrested one John Bowen?

A. Yes sir, I arrested one John Bowen.

Q. Did you see him here this morning?

A. I did sir.

Q. The same man that you arrested?

A. The same gentleman that I heard testify here this morning.

Q. We have a record in these files that he once resisted arrest by an officer. Are you the officer?

A. Yes sir, I am the officer, and he resisted me.

Q. Where did this happen?

A. Right in the southern part of Grand pass. Between Grand pass and Sundown island, but more towards Grand pass.

Q. What was he doing?

A. He was fishing oysters.

Q. What did you arrest him for?

A. I arrested him on two charges I believe. I am not quite certain, but one charge that I arrested him on was for not having a license to fish in Mississippi waters.

Q. For not having a license from whom?

A. From Mr. Hewes, in Harrison county.

Q. Why did he resist arrest?

A. I went to him and boarded him and asked him if he had a license and he told me no. At first he told me he did not know whether he had any right to answer me or not. I told him that he did. I told him that I was an oyster inspector, and he said he did not know whether I was or not. He said "Where did you get your authority from." I says "I have been appointed by the board of supervisors for the oyster inspector of this county. He said, "I don't know whether you have or not. I did not have my commission with me at the time. I told him I had my assistant with me, he is now dead Joe Busick. I says "Captain, I can show you the law or the certificates I have. He said "Never mind your certificates. Show me your authority. I says I will show my authority, and I jumped on board his schooner, and I told him I would bring them to the Pass. He said
1626 "I guess you won't." I says "I guess I will." I did not have anybody but an old man with me, and when I got aboard of him he started to get his crew, and I supposed to throw me overboard. I did not know what he was going to do I says "You need not try anything like that. I guess there will be some funny business about here, and I told him to throw up his hands. I told the crew to come on and raise up the anchor. I had nothing but a little sloop and I told the men with me to hoist up your sails and we would take him to the Pass. It was right after the storm and I had taken a great deal of responsibility on my shoulders. The most

of these schooner men had suffered a good deal from the storm. I took a great deal of pity on them. If I would catch one out there without having their license I would always give them a chance to go inside and get their license, and make their first load so that they could make money enough to get their license. When he saw that I meant business and that he could not bluff me out of it, I told him that it was my duty and I was going to do my duty whatever it cost, he said that he would come to Biloxi and get a license the next trip. The next trip I missed him and I found that he had gone out and had not gotten his license from Mr. Hewes, and I went down to Biloxi and had him arrested as a fugitive from justice.

Q. In executing your office as oyster inspector from November 1893, what territory did you inspect or patrol?

A. Well sir I patrolled from this coast here up to Door point. I cannot remember all of these islands. It has been quite a while ago. But I took a chart and took the code and several of us, Mr. Easly and Mr. Bowers, and all of us sat down there with a compass and a code, telling us where the code said the line was. We took the compass and measured, and the lines of Mississippi run a little west up on Door point, not very far. What we call Door point is Deep Water point. Some of them call it Door point, and some of them call it Deep Water point.

Q. According to that line in what State is Isle à Pitre?

A. Well according to that line Isle à Pitre should be in Mississippi in Harrison county.

Q. Do you know about where the line would strike this marsh between Harrison and Hancock counties?

A. Between Harrison and Hancock. I believe that the Hancock line runs somewhere to the eastward of Half Moon island. I am not sure. It has been so long since I looked over these charts that I don't remember exactly. I think that it is somewhere to the eastward of Half Moon island.

Q. You know where Grand pass is?

A. Yes sir.

Q. What county is Grand pass in?

A. It is supposed to be by the Mississippi code and what I have always heard in Harrison county.

Q. And you patrolled these water there as inspector?

A. Yes sir.

Q. Did you make any other arrests?

A. Well I suppose that I made 15 or 20 arrests while I was there.

Q. Where were they when you arrested them?

A. Well there were some in Grand pass, and some between Sundown island and Grand pass, and some in Creole gap.

By Col. ZACHARIE: Counsel for Louisiana here reserves an exception to the testimony in regard to arrests and judicial proceedings, until the loss of the documents or the destruction of the records has been shown, the proof cannot be admitted as to their contents.

Q. Did you have warrants for the arrest of these persons or did you arrest them by taking them in the actual violation of the law?

A. In the actual violation of the law.

Q. Was it necessary to have a warrant?

A. No sir, the laws of the State of Mississippi says whenever
1627 an officer finds a man in the act of violating the law, that is the way that I understand it, he has a right to arrest the man right in the act.

Q. You think that you made fifteen or twenty arrests?

A. Yes sir, probably more than that. I cannot remember exactly.

Q. In that neighborhood?

A. Yes sir, between Creole gap and Grand pass, and between Sundown island and Grand pass, and between Cat island and Isle à Pitre and all around these places and at Pass Christian, and at Pass Marianne, and I made some arrests on what they call Telegraph reefs.

Q. Do you know where what they call the deep water channel is coming out of the mouth of Pearl river and Lake Borgne, north of Half Moon island, and between Cat island and Isle à Pitre. What they call the deep water channel?

A. Yes sir, we have three channels We have the channel that goes by Pass Christian. That is Pass Christian channel. That is what Pass Christian is named from. Then we have the channel that goes up by Pass Marianne light house and comes to the northward of Cat island, and then we have the deep water pass, another channel that comes to the southward of Cat island. We have three channels right there.

Q. Now these arrests that you made. On which side of this deep water channel were they?

A. I made some of them southward of these channels, and some in between these channels and some to the north of these channels.

Q. State what you may know if any thing about this deep water channel being the true boundary line between Louisiana and Mississippi?

A. Well sir, I have been going up there out through these islands I went out there with my father when I was quite a young boy, I suppose ten or twelve years of age, and the way that my father always spoke and these old people, they always told me that we were in Mississippi when we went there.

Q. Mississippi for how far?

A. We have been as far as Isle à Pitre.

Q. In miles or leagues?

A. About six miles.

Q. Six miles.

A. Six leagues I mean. I went out there when quite a small boy with my father.

Q. I don't believe you answered me directly as to whether you have heard of this deep water channel being the true dividing line between the States?

A. No sir, I have not.

Q. How old was your father?

A. He has been dead going on thirty years. He was 58 when he died.

Q. So he would have been eighty years old now?

A. Yes sir, more than that.

Q. Have you heard him speak of the limits of the State of Mississippi?

A. I heard he and my uncle just like two brothers that always lived together, they used to talk very often about Louisiana and Mississippi. I have always heard him talk about the Grand marsh.

Q. You spoke of the Grand marsh. Is that what this disputed territory down there is called?

A. Yes sir, that is what I understand to be the disputed territory.

Q. What about it being called the Louisiana marsh up there?

A. Some people that I heard talk about these Louisiana marshes, and the others I have always heard talk about the Grand marsh. All of these old people. Captain Louis Shruff was very old when he died, and my father, and my uncle, and all of these people always talked about the Grand marsh. They were all foreigners you know and they came here when they were very young. I always heard it from a young boy. They would see the land up there, from the east point if I am not mistaken; from the north east point of Chandeleur islands, in a westerly direction to the mouth of Pearl river. That is what I always heard the lines were.

1628 In fact my grandfather was a Spaniard, and my father and my uncle, they were just like two brothers. They were two brothers in law. They would go out and get to talking, and one would say "You are in Mississippi now." They were always joking one another. The other one would say "Now you are in Louisiana." I can recollect it when I was a little boy.

Cross-examination.

By Col. ZACHARIE:

Q. You say that you have frequently heard this disputed territory called Louisiana marshes?

A. Frequently, and then I have heard it called Grand marsh.

Q. How far back can you remember that you have heard it called Louisiana marsh?

A. Well sir, it has not been very far back. From a young boy I have heard my father and them call it Grand marsh, but after I got of age and I got to be an oyster inspector, I used to hear a good many of these New Orleans boats that used to come around there call it Louisiana marsh.

Q. Now as a matter of fact have you not heard any number of these fishermen and Mississippians call it Louisiana marsh?

A. I have heard a part of it called Louisiana marsh.

Q. Would not that extend twenty or twenty-five years back?
A. Well no sir.
Q. Can you fix the date when you first heard it called Louisiana marsh?
A. No sir, I can not. I don't think that it would date far back. The only time I ever heard it a great deal was between a New Orleans and a Mississippi boat disputing.
Q. That has been very recently?
A. It has been since about 1878.
Q. At that time did any of the fishermen call it Louisiana marsh?
A. Not that I know of no sir.
Q. You say that you live at Pass Christian?
A. Yes sir, I was born and raised there.
Q. Is it not a fact that from time immemorial there whenever the mosquitoes were bad at Pass Christian all of the people would say that they were due to a wind coming from these Louisiana marshes?
A. No sir, you go there and stay a week and you will find out whenever we have a wind from a westerly direction, from towards the Rigolets you will find that we are pestered with mosquitoes. That is what we call the Louisiana marshes.

Redirect examination.

By Mr. FLOWERS:

Q. Explain what you mean by the Louisiana marshes?
A. What we call over there the Louisiana marshes whenever we have a westerly wind look out for mosquitoes, that means around the Rigolets or some where around there. It is a terrible place for mosquitoes. In fact that marsh out there is very bad, but you very seldom see any mosquitoes in around our coast with southwardly or southeast winds.

Recross-examination.

By Col. ZACHARIE:

Q. How far it it from the Rigolets to Pass Christian?
A. I think that it is about 35 or 40 miles.
Q. Do you mean to say that the mosquitoes that you are troubled with in Pass Christian come 35 miles from the Rigolets?
A. I mean to say this. You can start from Pass Christian or from Biloxi, and the further west you go the worse the mosquitoes are.
1629 Q. That is not an answer to my question. I asked you the question, do you mean to say when Pass Christian is infested with mosquitoes that they come 35 miles from the Rigolets?
A. I think they will sir for this reason. We hear up the country here 35 or 40 miles up the country last summer, it was a thing that was not known to have mosquitoes there, and the whole country was

infested with them with these westerly winds, and I attribute it to that.

Q. Do you know that the most recent scientific investigations show that mosquitoes are never known to travel or be carried more than two or three miles from their locality?

A. I have never studied it in that way, but I can simply tell you that you may be here now and not a mosquito here and in five hours you can not run away from them.

Q. That is simply your idea that these Louisiana mosquitoes come from the Rigolets and that they travel 35 miles to Pass Christian?

A. I think that they will travel most any where that the wind will blow them, and I have fished and hunted all over the Rigolets. I have fished oysters and hunted all through the marsh out here, and that is the worst point I have ever seen for them is right around the Rigolets. I have sailed all through there from place to place as a boy.

Redirect examination.

By Gen. McCLURG:

Q. I understand you to say that you have never studied the mosquito problem scientifically?

A. No sir, I have not.

Q. You speak from observation and practical experience?

A. Yes sir.

Q. Did you ever have any observation of or practical experience with musk rats?

A. Well I have killed a few.

Q. You don't know whether they are active agents in the destruction of the marshes or not?

A. No sir, I do not. I know that they make holes in the marsh and you will sink up to your body in them, in the holes that they make. They dig under the ground and you will sink up to your arm pits in the holes. Right here in any of this marsh. You can go there and see.

Q. There are no alligators there?

A. No sir, not where the musk rats are.

Q. You know where there are alligators they will destroy the musk rats?

A. They destroy the musk rats.

Q. Louisiana once passed a law making it a misdemeanor to kill an alligator because the alligators killed the musk rats?

A. We don't have to go far to find that. We go out into our little marshes here, and since the trappers have been killing the alligators you can hardly walk through the little marshes that we have here.

Q. The musk rat undermines it?

A. Yes sir, the musk rat undermines them.

Q. There has been no ordinance passed by any of these coast counties against mosquitoes or muskrats has there?

A. No sir, I don't think there has. I don't think that they lost their time in doing any thing like that.

EMILE BOSARGE, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Mr. MCCLURG:

Q. Where do you reside?

1630 A. Biloxi.

Q. How long have you lived here?

A. I have been here since 1886.

Q. How old are you?

A. 46.

Q. Where did you come from?

A. From Alabama.

Q. What is your present occupation?

A. Oystering.

Q. How long have you been in the business please sir?

A. About 30 years.

Q. Where have you been taking oysters?

A. Out in the marsh and the Mississippi sound here.

Q. What portions of the sound and of the marsh?

A. From St. Joseph as far as American bay.

Q. American bay?

A. Yes sir.

Q. That is the southern portion of the marsh?

A. Yes sir, that is in the southern part of the marsh.

Q. In saying from St. Joseph, you mean from St. Joseph island.

A. Yes sir.

Q. Southward to the American bay. What State were you in?

A. I supposed I was a part of the way in Mississippi. Part of the time and the other time in Louisiana. American bay I think is in Louisiana.

Q. What part of the time were you in Mississippi?

A. When I was up around this edge of the marsh. Around Grand pass and Three Mile bayou.

Q. Do you know how far the limits of Mississippi are south from her main shore?

A. I have always heard that it was 18 miles from the mouth of Pearl river.

Q. Did I understand you to say so far as you were within 18 miles of the Mississippi shore that you considered yourself in the State of Mississippi?

A. Yes sir, that is what I thought.

Q. How long has this been your understanding?

A. 13 or 14 years. Since 1893 I think we had the first inspectors here.

Q. Did you pay a license?

A. Yes sir.

Q. Where did you pay it?

A. Here in Biloxi.

Q. To whom did you pay it?

A. Captain ——.

Q. Who was he?

A. The inspector. The oyster inspector.

Q. Appointed by whom?

A. By the board of supervisors.

Q. Of Harrison county, Mississippi?

A. Yes sir, of Harrison county, Mississippi.

Q. Under this license did you fish in this territory that you have mentioned?

A. Yes sir, I have fished in this part of the territory. I never went any further than Three Mile bayou then.

Q. Were you ever in Three Mile bayou?

A. Yes sir.

Q. Under this license?

A. Yes sir.

Q. Did you go down through Three Mile bayou any distance?

A. Yes sir, I went down through the Karakos and up as far as Bayou Mussell.

Q. That is under this license that was issued to you that you have just mentioned?

A. Yes sir.

Q. Did any of the Louisiana authorities disturb you down there in 1893?

A. No sir.

Q. Were you ever as far west as Nine Mile bayou?

1631 A. Yes sir, I have been out through Nine Mile bayou a few times.

Q. Under this same license?

A. I did not have any license at that time. The law was out and no license was required at that time.

Q. That is afterwards?

A. Yes sir, after I had license.

Q. I believe you stated that you never got a license from Louisiana?

A. No sir.

Q. You have never been interfered with by the people from Louisiana in fishing there?

A. No sir I never have.

Q. Now I want to show you please sir Exhibit A to Mississippi's answer and cross bill. Here is Three Mile bayou marked on this map, and that is I understand the bayou that you have been through?

A. Yes sir.
Q. Are you acquainted with the Raccoon islands?
A. Yes sir.
Q. With Crooked island?
A. Yes sir.
Q. Wild Goose island?
A. Yes sir.
Q. Indian Mound bay?
A. Yes sir.
Q. Southwest pass?
A. Yes sir.
Q. And here is Cat Fish pass?
A. Yes sir, I have been all through there.
Q. When you went through Three Mile bayou as you stated awhile ago down to Bayou Mussell; point out now please sir which way you went down there. Commence at Three Mile bayou.
A. Three Mile bayou, Raccoon island, Crooked island, Dutchman's pass.
Q. Were you ever in Indian Mound bay?
A. Yes sir.
Q. How did you get there?
A. Through Three Mile bayou and by Wild Goose island.
Q. Here is Crane Town bay. Were you ever in that?
A. Yes sir.
Q. How did you get there?
A. Went through Karako bay and Three Mile bayou down through Karako bay and come out at Crane Town.
Q. How did you get out of Crane Town?
A. Through Elephant pass and I got to Biloxi through Ship Island pass.
Q. Where is Ship Island pass?

(Witness shows location on the map.)

Q. When you left Elephant bayou which way did you turn?
A. North east.
Q. Did you go in the neighborhood of Brush island?
A. Yes sir.
Q. Cheno bay?
A. Yes sir.
Q. Jack Williams bay?
A. Yes sir.
Q. How did you go into Jack Williams bay?
A. I come in through Creole gap by Sun Down island into Jack Williams bay.
Q. Were you ever in the neighborhood of Door Point?
A. Yes sir.
Q. How did you get there?
A. I come through Creole gap and come through Ship Island pass.

Q. Where is Ship Island pass?
A. Right here. South, southwest from Biloxi to Door Point.
Q. Now let me ask you. You will notice on this map Cat Island channel. Do you know where that is? The same figures that you notice along here come out through the sound into Lake Borgne, between Brush island and Door point on the Mississippi shore. Do you know where that deep water channel is?
A. Yes sir.
Q. Now where did you take your oysters? From the north side or the south side of this channel?
1632 A. I have gotten oysters from both sides of it.
Q. Where did you take most of your oysters?
A. On the south side.
Q. Were you taking them under the license that you spoke of awhile ago?
A. Yes sir.
Q. And since 1893?
A. Yes sir.
Q. Have you had any license before that?
A. No sir.
Q. Have you had a license from Louisiana?
A. No sir.
Q. Were you ever disturbed by any body from Louisiana?
A. No sir.

Cross-examination.

By Col. ZACHARIE:

Q. How long did you say you had been engaged in the oyster business?
A. About 30 years.
Q. At what points?
A. I began oystering in Alabama.
Q. When did you come to this coast here of Biloxi?
A. In 1886.
Q. To whom have you been delivering oysters? Selling them?
A. I began here for Mr. Lopez.
Q. Mr. Lopez carries on a cannery?
A. Yes sir.
Q. And afterwards to whom?
A. Well I carried some to the Barrataria, the Biloxi Canning Co., and some to Julian & Co.
Q. Those are all canning companies?
A. Yes sir.
Q. You are still engaged in that business of delivering oysters to the canneries?
A. Not at the present time?
Q. I mean to say when the season is on?
A. Yes sir.

Q. Well now in regard to this disputed territory. These marsh
Is it not a fact that these marshes have been generally called
Louisiana marshes?

A. No sir, my first knowing of the name of the marsh was Gra
marsh?

Q. Have you not ever heard it called the Louisiana marshes?

A. Yes sir, of late I have.

Q. How far back did you hear them called Louisiana marshes?

A. That I could not say. It has not been so very long thou
I have heard — the Louisiana marsh when I was a little boy.
father used to go to the Louisiana marsh to get gull eggs.

Q. Since you were a little boy?

A. Yes sir.

Q. How did you come to know about Mississippi claiming
leagues or 18 miles south of the Mississippi shore?

A. When this law come up in 1893 I think it was.

Q. You never knew anything about it until 1893?

A. No sir, I never knew anything about the 18 miles until th

Q. Prior to 1893 did Mississippi or any of these coast count
have any laws or regulations about the license for oyster fish
men?

A. None that I know of, no sir.

Q. Have you ever known of this disputed territory, this mar
being called a part of the parish of St. Bernard in Louisiana?

A. No sir, I don't really know any thing about it.

Q. Have you ever heard it spoken of as a part of Hancock coun
or Harrison county?

A. Yes sir, I have heard them speak about it.

Q. Since when?

A. In the last few years.

Q. How many years back?

1633 A. Well I could not say because I have not paid mu
attention to it.

C. S. STRONG, a witness introduced on behalf of the State
Mississippi, being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. Where do you reside, Mr. Strong?

A. In Biloxi.

Q. How long have you resided here?

A. Well at this time I have been here about three years. But
have lived here about ten years.

Q. How old are you?

A. I am 45.

Q. What is your present business?

A. Oystering in the winter time.

Q. How long have you been oystering?

A. I have been oystering all of my life, but I have been oystering around Grand marsh since 1881.

Q. Name some of the points in Grand marsh where you have been oystering since 1881?

A. Well I could take in the whole thing, and commence from Isle à Pitre to Creole gap, and Grand pass and Turkey bayou and Johnson bayou and Three Mile bayou. I have been down as far as Nine Mile bayou, but I never had much business down there. There are not many oysters in Nine Mile bayou, and I have been around Raccoon island, and as far as Bayou Treasure on this side. I could mention all of the places.

Q. Well when you were in there what State were you in?

A. Well we always considered that Mississippi had jurisdiction over the whole marsh.

Q. Did you ever have a license to go in there?

A. Yes sir, I had a license in 1891 I believe it was.

Q. Where did you get your license?

A. At Mississippi City at the court house.

Q. What was this license for?

A. It was to fish oysters in Mississippi.

Q. And under this license you fished where?

A. We were not limited. Where ever we wanted to go. Any where as far as Three Mile bayou. We could go down as far as Bayou Chico if we wanted to nobody would stop us.

Q. Did you ever go in Nine Mile bayou under this license?

A. I don't know that I ever went in Nine Mile bayou under this license, but we have been to Bayou Tresor, and through Three Mile bayou. You leave Nine Mile bayou to the north of you.

Q. In what size boat could you go through Three Mile bayou and Bayou Tresor?

A. I had a schooner that was drawing four feet of water loaded and we came out of Bayou Tresor.

Q. Could you go through Bayou Tresor and Three Mile bayou drawing four feet?

A. You could by watching your tide. There is a great rise and fall in the tide out there.

Q. I want to ask you whether you could go into Nine Mile bayou from the north east, and come back out through Three Mile bayou?

A. Yes sir, you can go in there.

Q. Could you go in there from the north through Three Mile bayou and come around out of Johnsons bayou?

A. Well you can do it with a boat not drawing much water. The trouble comes in here. You can go through Three Mile bayou with a boat drawing about two and a half feet of water and go through Johnson bayou.

Q. You can go in there at Johnsons bayou and come around and come out of Turkey bayou?

A. No sir, I don't think you could carry much water through t way.

Q. Well could you go in at Grand pass and come out at Bay Pierre?

A. Yes sir.

1634 Q. And come in Bayou Pierre and come out at Creole ga

A. Yes sir, I have done that many a time.

Q. Creole gap and come around Isle à Pitre?

A. Yes sir.

Q. Can you sail around Sundown island?

A. Yes sir.

Q. You can go through Grand pass into Jack Williams bay?

A. Yes sir, you can go in there.

Q. You can go from Jack Williams into Northeast bay here?

A. Yes sir.

Q. Have you ever been in Crane Town bay?

A. I have — all through Crane Town bay.

Q. You have been all through the marsh have you?

A. I have been all through the marsh from one end of it to t other.

Q. How long have you been going in there?

A. I don't know how long. It has been since 1881. It has be about 22 or 23 years I guess.

Q. And you believed that you were in what State?

A. They never barred us from Louisiana. We had Mississi license but we considered that we were all right as long as we h Mississippi license.

Q. How far would you go under these license- south of the M sissippi shore. South. How many leagues or miles?

A. I have heard it said that it was 18 miles, but we went furth than 18 miles if we wanted to.

Q. You have always heard that called the Louisiana marsh?

A. Yes sir, I have heard it called Louisiana marsh and Gra marsh too.

Q. How long since you heard it called Louisiana marsh?

A. When I was a boy I lived in Mobile on the bay, and we us to plant oysters and we would always say we were going to t Grand marsh. Since I have come to Biloxi, I have heard it call Louisiana marsh. I thought when we were transporting oyst down there to Mobile bay that we were getting them out of Miss sippi waters.

Cross-examination.

By Col. ZACHARIE:

Q. When did you take out your license in Mississippi?

A. I think that it was in 1891 or 1892. I did not try to reme ber the time.

The commission here adjourned until Wednesday June 22 1904.

WEDNESDAY, June 22nd, 1904.

The commission met this morning at ten o'clock, and then adjourned until 2 p. m. in the afternoon. There were present Gen. Monroe McClurg on the part of the State of Mississippi, and Col. F. C. Zacharie on the part of the State of Louisiana, and Commissioner William D. Bullard.

The commission met at two o'clock with the same presence as above, and adjourned until nine o'clock to morrow morning.

THURSDAY MORNING, June 23rd, 1904.

1635 The commission met this morning. There were present William D. Bullard, commissioner, Gen. Monroe McClurg, counsel on the part of the State of Mississippi, and Col. F. C. Zacharie, counsel on behalf of the State of Louisiana.

Capt. S. R. THOMPSON, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. How old are you Captain?
A. I am 65 years old.
Q. Where were you born?
A. Ocean Springs, Jackson county, Mississippi. W. B. Smith owns the residence now.
Q. Have you lived in Mississippi during your life?
A. Yes sir.
Q. And along this coast line?
A. Yes sir.
Q. What has been your business during your life?
A. Well my step father was a mechanic and I followed that. I went in the army later, before I was 21, and then after I came out of the army I went into the mechanic's business for a year or two, and then I went into this lake trade running vessels to New Orleans.
Q. About what time did you go into the lake trade?
A. In the beginning of 1867.
Q. How long did you continue it?
A. I run to New Orleans four years steady. The old basin and the new basin, with lumber from Denny & Co. I run lumber from their saw mill.
Q. There at Scranton?
A. No sir, at Mess point.
Q. What other firm?
A. Gautier, there at West Pascagoula. On the western side.
Q. What different places have you lived on the Mississippi shore?
A. Well I was in Lutchers Louisiana for seven months and then on the Mississippi shore. I have been at Bay St. Louis for four

months, and Pass Christian for three or four months, and I lived in Biloxi for ten years, and we have been in Ocean Springs about 15 years, and I have been in Pascagoula and Scranton.

Q. In this suit by Louisiana against Mississippi what is called the deep water channel line out of the mouth of Eastern Pearl river, through Lake Borgne to the Mississippi sound as far as Cat island, into the Gulf, is claimed to be the dividing line between the two States. What have you to say with reference to that claim?

A. Well I have been through that channel several times. When we came by St. Joseph island after we passed it three or four or five miles we steered to the southward, to what is called South channel there, and when it approached near Cat island we called it Cat Island channel. It is south of Cat island. It is deeper than the Pass Marianne channel. I have been that way going to and coming from New Orleans.

Q. You know where the deep water channel is then?

A. Yes sir, I have been through it.

Q. What have you to say about its being the dividing line between these two States?

A. Well I have never known it to be the dividing line.

Q. Have you never heard of its being the dividing line?

A. No sir, I never have.

1636 Q. State if you know where the line is between the two States?

A. Well the dividing line between the two States has always been understood with me and most of the captains that I talked with to be Eastern Pearl river. The line followed this river while it flowed in its banks, and after it left its banks and emptied into the lake we thought the line extended due south 18 miles. That is the way that we looked at it.

Q. Did you know any thing of any occupation or actual possession of any territory by any company or mill from Pascagoula or other place of any part of the territory within this 18 mile limit and if so state what you may know about it?

A. Yes sir, I recollect for instance going down there fishing in that marsh for oysters for Mississippi here, for Mississippi consumption and in the beginning of 1881 there was a factory located at Pascagoula river. On the east bank of the Pascagoula river.

Q. What was this?

A. It was the Mexican Gulf Canning Co. It was a canning factory and canned oysters for shipping purposes.

Q. What did it do?

A. Well they got their oysters from the Grand marsh. They sent their vessels down there under the control of a man by the name of Thomas Bendon.

Q. Where is he?

A. He is dead. He died in Florida. They employed a great many vessels in their oyster business. They went down there and built a camp at Cranetown pass. Right by Martin island, Martin

island and Brush island is just outside. They built camp there at Cranetown pass.

Q. Near Martin island and Brush island?

A. Yes sir, they built a camp about 75 feet long, and it had one big room in it. It was a long house with one solid room for the men to camp in. There was no partition in it.

Q. How long were they there?

A. Well they were there during the oyster season, the winter season of the year for two years. Two winter seasons they took possession and fished there.

Q. Can you state in what State they supposed themselves to be?

A. In Mississippi. They said that they were in Mississippi.

Q. Was there any interference with them by the Louisiana authorities?

A. No sir, I never heard any claim made by the Louisiana authorities against them. Mabury is dead. He was the foreman of the factory. He died here in Biloxi. Benton is dead also. He died in Florida. He has a son in Mobile by the same name now running a tug boat.

Q. What has that marsh been called since you first knew it?

A. Grand marsh.

Q. When did you first know it Captain?

A. The first time that I ever was out there was before the Civil war. I went in a small boat to Cat island fishing oysters. One time with one of the Holly boys, and we went over there by Isle à Pitre and they called it Grand marsh.

Q. Have you ever heard it called Louisiana marshes?

A. Here lately I have. It is only just lately that I have heard them call it that.

Q. Were you ever in Nine Mile bayou?

A. Yes sir—no sir, I have passed by it. My step father run in there in the Civil war to get provisions.

Q. Were you ever in Three Mile bayou?

A. No sir, I never went through any of these bayous except Grand pass. I used to go fishing and hunting around there. I did not fish oysters for a living.

Q. When were you there last?

A. It has been a good many years ago. It has been ten or twelve years. Twelve years or maybe more.

Q. There has been some testimony introduced in this case Captain to the effect that there is a subsidence of that territory. Sinking. What have you to say to that if any thing?

A. Well I don't know. On the northern bank of the Grand
1637 marsh I don't know that there is any change in that, except at the mouths of the bayous some times there are bars formed there, and makes them shoal and some times they get deeper. They are not permanent.

Q. What have you to say with reference to the subsidence?

A. My experience in this matter is that the deposit from the river,

all the rivers around there, instead of the land sinking it rises, from the fact that the deposit from the river is made there and it gets to the top of the water and the marsh grows up. I can see many places where the marsh has raised by the filling. You understand the river strikes the sea and the soil that it carries is deposited there, and that is the reason that we have these islands.

Q. I am not speaking of the mouth of the Mississippi. I am speaking of the territory in dispute?

A. I don't think there is much change in it.

Q. Do you know where Petit Pass island is and Grand island, Grassy island and Round island and St. Joseph?

A. Yes sir, I have seen them. They have different names for these islands. I believe they used to call that Rabbit island 25 years ago.

Q. You spoke of Isle à Pitre and Grand Pass?

A. Yes sir, you see that St. Joseph island is almost washed away. There is a portion of it that is there yet. But the storm of 1893 nearly washed it all away.

Q. When was it that you say you first became acquainted with Grand marsh?

A. Well that was in 1858 or 1859 when I first went out that way.

Q. And you last saw it ten or twelve years ago?

A. Yes sir.

Q. Now have you ever noticed any material changes any where between the first time you saw it and the last time you saw it. If you have seen any I wish you would please let us know what those changes are?

A. No sir, I never noticed any changes there. The things are about the same that they were when I first went there. There might be a change by a close examination. By sounding you might find it, but I have never inspected it that closely.

Q. Where was your father born if you know?

A. My father was born in England.

Q. When did he come to this country?

A. He came in 1834 to Boston and from Boston here in 1835.

Q. Do you know whether he was familiar with this country about which we are speaking?

A. He built a vessel at Ocean Springs for a man named Belmont before Texas was annexed to the United States, and that vessel was chartered by Ashbury and the Brandon Bank people there. They took her to Texas with a load of negroes and the vessel was lost by going into that territory, and it not being a part of the United States. She went out of here at night with the negroes on board and Belmont lost his schooner. It was seized and held over there.

Q. Can you tell us what the understanding and belief of your father was as to the limits of Mississippi territory?

A. No sir, he died when I was quite young and I could not say. I could not say what his belief about it was.

Q. What is your present occupation?

A. I am merchandising sir.

Q. Now I understand you to say that you have lived at several places along this coast?

A. Yes sir.

Q. I wish you would tell us if you can what the general belief and opinion of the people in the communities in which you have resided of these several places was as to the boundaries of the State of Mississippi and her jurisdiction south of her *her* shore line?

A. Well the first understanding that I had about the jurisdiction of the State to the south was a case that came up before the court and my step father was acting deputy sheriff of Jackson
1638 county, and there was a levy made on a vessel at Chandeleur island.

By Col. ZACHARIE: The counsel for Louisiana here enters an objection and exception to any testimony in regard to any suit or legal proceedings being testified to by this witness, unless the foundation is first laid by showing that the record or other proceedings in such suit have been lost, destroyed or mislaid. That is to say the counsel for Louisiana objects to any hearsay, verbal testimony as to any such legal proceedings.

By Gen. MCCLURG: The witness was only stating a fact and was not attempting to state the pleadings or the matters tried and adjudicated contained in any record.

Q. You were saying that there was a vessel levied on at Chandeleur islands?

A. Yes sir, the deputy sheriff levied on her.

Q. Who was the deputy sheriff?

A. That was my step father. He levied on her in the name of the sheriff, and when they investigated the matter they found that the State of Mississippi had no jurisdiction out there, because it was beyond the 18 mile limit.

Q. They levied on a vessel on what island?

A. On Chandeleur. They withdrew the attachment.

Q. About what year was this?

A. I think that is was in 1851 or 1852, before the yellow fever epidemic.

Q. Where is your step father?

A. He is dead sir. This levy was before the big yellow fever epidemic.

Q. Can you say whether or not the records of Harrison county and the court house have been destroyed since that date?

A. Yes sir, twice, by fire.

Q. Twice since that?

A. Yes sir, twice destroyed by fire. There is no record of this thing now I don't think. That has all been destroyed by fire.

Q. Did you ever have any connection with the ordinances of Jackson, Harrison, or Hancock counties, with reference to taking fish or oysters, or with reference to fixing quarantine regulations?

A. Yes sir, in Jackson county I have.

Q. When?

A. That is some years back. I was on the board of health for six years.

Q. What years were those about?

A. I believe that it was in 1876. Along that time.

Q. As a member of the board of health of Jackson county and dealing with matters of quarantine, what was taken as southern limit or outside water limit of Jackson county?

A. The same that it is all along the coast here. Six leagues from the main land, excepting the quarantine regulations you know, they would not allow a vessel south of 29 to come into port without being fumigated, and submitting to the regulations of the board of health.

Q. 29 you say?

A. Yes sir, 29 latitude. We are about 30. Between 29 and 30 along here.

Q. In dealing with quarantine and health matters your board at that time exercised jurisdiction did I understand you to say over six leagues limit from her shore line?

A. Yes sir, they claimed that.

Q. I asked you awhile ago about the jurisdiction of the board of health of your county. I wish you would say whether you were ever a member of the board of supervisors of your county?

A. Yes sir, I am a member of it.

Q. Now?

A. Yes sir.

Q. How long since?

A. I have been since the first Monday of January last.

1639 Q. Were you ever a member of the board before?

A. Yes sir.

Q. When?

A. 1876 and 1878 I think it was.

Q. The laws of Mississippi authorize the boards of supervisors of these coast counties to make regulations for the taking of fish and oysters and game. Will you say whether your county has ever had any regulations of that kind?

A. Yes sir.

Q. While you were a member of the board?

A. Yes sir.

Q. In making these regulations and enforcing them according to the powers conferred upon the board by the laws of the State, what territory south of the shore line if any was covered in the making of these regulations and in the enforcement of them?

A. Well the jurisdiction of the board of supervisors of these

atters is coextensive with the county. And upon the petition of e citizens of a locality we would pass an order by the board pro- cting the portion of the county where they desired it. That is the ay that we acted on it generally. Some times it would be on the ay shore east of the town of Pascagoula, and some times at the outh of the river, and some times north of the railroad bridge. ascagoula river and Bluff creek and those tributaries ordinances ave been passed by the board of supervisors protecting the fishing ere, and to prevent fishing with a smaller fish net than a certain ze. To protect the spawn of the fish.

Q. How far out from the shore did you exercise jurisdiction in is matter?

A. We never went any further than the Mississippi sound, but we new that we had jurisdiction coextensive with the county, the me as the State, 18 miles. We know that we can arrest any body ith a process that far out. As far as Ship island and out there.

Q. Were you ever mayor of your town?

A. Yes sir, for two years. I was mayor of the town.

Q. Mayor of what town?

A. Scranton.

Q. What years?

A. I have forgotten the years now.

Q. About how long ago?

A. I think that the town has been incorporated about fourteen or xteen years, and I was the first mayor of it.

Q. Now under the law the mayor of these incorporated cities and wns are made *ex-officio* justices of the peace?

A. Yes sir.

Q. You acted in that capacity also, did you?

A. Yes sir.

Q. Well do you know of any matters that came before you for ljudication involving civil and criminal trials out as far as Horn land?

By Col. ZACHARIE: The counsel for Louisiana objects and excepts any testimony of the witness as to any judicial proceeding before im as mayor of the town of Scranton or *ex-officio* justice of the eace whether civil or criminal unless the foundation is first laid y counsel for Mississippi by showing the loss, destruction or mis- ying of the record or other primary evidence of said judicial pro- eedings.

Q. I was asking you Captain whether you remembered as a fact f any matters civil or criminal that came before you for adjudica- on where the venue was on Horn island or to the southward of it?

A. No sir, none has come before me on Horn island or to the outh of Horn island.

Q. Can you recollect as a fact whether any such matters came up or adjudication in your county?

A. Yes sir, there has been an adjudication in the county.
1640 There was one case came up but it was settled amicably.
About Bayou Casotte. There was some infringement of the fishing there, but it was settled between them.

Q. Can you state as a matter of fact whether any matters civil or criminal have come before the circuit or chancery courts of your county respecting transactions on Horn island or to the southward of Horn island?

By Col. ZACHARIE: Counsel for Louisiana renews the same objection as made above to the witness testifying to any judicial proceedings before the courts until such time as the counsel for Mississippi may show the loss, destruction or mislaying of the judicial records in such cases, and to the introduction of all secondary evidence until such time as the impossibility of producing the primary or best evidence be shown and laid as a foundation for the introduction of secondary evidence.

By Gen. MCCLURG: The attention of the counsel for Louisiana is called to the fact that the destruction of the court house and the records of Jackson county has already been proven, and this question was initiative first, to show the fact of the adjudication of any civil or criminal matter and if any develops proceed to establish the matters in controversy by parol testimony, if it should appear to have been prior to the destruction of the court house and records, otherwise to produce the records themselves disclosed by the testimony of the witnesses.

Q. Now Captain I will ask Mr. Peyton to read to you the question that I asked you awhile ago and ask you to answer it? Can you state as a matter of fact whether any matters civil or criminal have come before the circuit or chancery courts of your county respecting transactions on Horn island or to the southward of Horn island?

A. No sir.

Q. There has been some testimony Captain in this case in respect to the destruction of the marshes by musk rats. Have you ever noticed any musk rats in that country?

A. Not in the marsh no sir.

Q. Where did you notice them?

A. On Chandeleur island there was proof of them. Before that heavy storm we had there were plenty of them on Chandeleur island.

Q. To which storm do you refer?

A. To the one in 1893.

Q. They were destroyed on Chandeleur by the storm of 1893?

A. Yes sir, they were washed off.

Q. Did you ever notice any on the Grand marsh?

A. No sir, I never noticed any particularly over there. I did not know there were any there at all. They were washed from Chandeleur islands. I guess they were washed over on the Grand marsh and that country over there in the storm.

Q. And that storm was when?

A. That was in October 1893.

Q. What have you to say if anything in regard to their destruction of the soil?

A. I don't think that they destroyed anything. I think that they tore down to make their habitation, but I don't think that they destroyed any part of the country at all. They did not carry any of it off.

Q. Have they any influence in the building up of the soil?

A. I think they have. They build a kind of a mound. They build a kind of a mound place for their nests, and they are like the raccoons, they stay there and eat roots and fish. They fish at low water. You find them outside of the reefs fishing. I used to go out there and catch them with a dog some times.

Q. Has that any influence on the sediment forming and collecting it?

A. They are something like a beaver would build his dam. They build their nests.

1641 Q. What about the wind carrying mosquitoes?

A. Well in 1858 we had a severe storm from the southeast. There was washed away all of the front of Biloxi in that storm. There was a store up here washed away in that storm. That is the worst storm that we have ever had along the coast that I can recollect.

Q. What about the mosquitoes?

A. I had to walk from Waveland to Ocean Springs. I was washed ashore in a small boat there in the storm. Every bush that I hit it looked like a thousand mosquitoes came out of it. I never saw as many mosquitoes in my life.

Q. Where did they come from?

A. They came from a southeast direction. I think that they came from the islands up there opposite the main land on the Florida coast.

Q. How far can they be blown by the wind?

A. I suppose that they were blown one hundred miles. There is no telling how far. When the wind blows they come. If we have a southwest wind here for a few days the mosquitoes will be blown from the mouth of the Mississippi river and come all along the coast.

Q. How far is it from here to the mouth of the Mississippi river?

A. A seventy-five or one hundred miles.

Q. What about mosquitoes on the marsh?

A. Well the mosquitoes on the marsh they inhabit it winter or summer. In the dead of winter you can walk in the marsh there and kick up a big tuft of marsh that has been lying dead on the soil there and the mosquitoes will come out from under it in the dead of winter.

Q. Are there more or less of them there than on the Mississippi shore?

A. Yes sir, there are more of them there than on the Mississippi shore.

Cross-examination.

By Col. ZACHARIE:

Q. What year were you born in Captain?

A. 1839.

Q. And you have been engaged in the lake trade since 1867?

A. Yes sir, that is the commencement of it.

Q. When did you first hear any discussion about the boundary line or the dividing line between Mississippi and Louisiana?

A. The first I heard of it was in running a vessel the captains would get to talking about the different places and about the dividing lines between Louisiana and Mississippi, and it was talked about a good long while before the quarantine regulations were put up, and of course then we had to know positive.

Q. About what time was it that you heard this discussion first?

A. It was way back yonder.

Q. Could you name about the time?

A. Well I heard it discussed in 1868 and 1869 and 1870 and along there among the schooner men.

Q. What did you say was the occasion that gave rise to that discussion?

A. The discussion about the boundary line was to know when we were in Louisiana and when in Mississippi.

Q. What if anything brought it up. Was it the quarantine?

A. No sir, the quarantine was not established then. That was later on.

Q. Can you give us some idea of how these discussions arose?

A. Yes sir, it was like all other matters that people on a vessel would want to know. So as to inform one another on things of that kind. That is what it was done for.

Q. You say that in 1881 the Mexican Gulf Canning Co., established on these marshes a factory?

A. No sir, not a factory.

Q. I mean to say a camp?

A. Yes sir, a camp.

Q. Did they have any store there?

1642 A. No sir, they did not have any store there. They brought the supplies on the vessels down there. Each vessel supplied herself when she went out.

Q. Did they sell to their employers or others?

A. No sir, I don't think that they did. Each vessel was furnished and she went down there with supplies for the trip.

Q. You say that they considered that they were in Mississippi territory?

A. Yes sir, that is what they said.

Q. How did you know that fact?

A. I did not know it as a fact? I know that they claimed that.

Q. How do you know that they claimed it?

A. I heard them talking about it. About the Mississippi line. Judging from the geography of the country they thought that we were in Mississippi. The Louisiana people never disputed it with them and I judged that they were right.

Q. Does not your impression on this subject arise from the fact that there was no objection or interruption on the part of the Louisiana authorities. Is not your opinion based on that fact, that the Louisiana authorities did not interfere or object.

A. Yes sir, I thought that if it was Louisiana territory that there would be an objection to their camping there and fishing oysters there.

Q. Well do you know as a fact that under the laws of Louisiana up to the year 1900 Mississippians, Alabamians and people from other States had the right to go there and camp and fish oysters?

A. No sir, I am not acquainted with the laws of Louisiana. I am not posted about that.

Q. Well your idea about their claiming this was Mississippi territory was derived from that impression?

A. Yes sir.

Q. Well now is it not a fact Captain that in speaking of these marshes in this disputed territory the common expression along this coast is to call them the Louisiana marshes?

A. No sir, not with the people that I mix with, and on the vessels that I sailed with they always called it the Grand marsh. It was always known as the Grand marsh.

By Gen. McCLURG:

Q. What is the meaning of the word Grand marsh?

A. It means Great marsh. I take the word grand to be a French word that means great.

By Col. ZACHARIE:

Q. I am asking you in regard to the general expression along this coast in regard to this marsh. Is not the expression in speaking of these marshes usually Louisiana marshes?

A. No sir, not along the coast.

Q. When the mosquitoes are very bad here is it not a common expression that they come from the Louisiana marshes borne in here by the southern winds?

A. A southwesterly wind brings them in here.

Q. Is it not a common expression that they come from the Louisiana marshes meaning the marsh within this disputed territory?

A. Within the Louisiana boundary yes sir The boundary line that is in dispute now, I have heard that was called the Grand marsh.

Q. Did you state that mosquitoes can be borne 100 miles and still live?

A. Yes sir.

Q. Don't you know it is a fact from the recent scientific study of the mosquito, that he can not be borne but a very few miles by the wind without being killed?

A. No sir, I do not know that.

Q. Where do these mosquitoes come from that you have along the coast here?

A. Well they come from water pools I suppose.

Q. I mean from what direction do they come?

A. They come from various directions. Some come from
1643 the southeast and some from the southwest. Some from Louisiana and some from Florida.

Q. I understand you to say that you have not been in this territory for ten or twelve years?

A. Yes sir. I have run a vessel since that on the regular route to New Orleans, but I have not been in that territory.

Q. Captain, you have never paid any close attention to the changes which might or might not have taken place in this disputed territory have you?

A. I have just by a casual observation. I have never made any extended observation of it.

Q. They you know nothing of the fact as to whether this territory has subsided or sunk?

A. I know nothing of it particularly only by observation, I don't think there is any material change in it.

Q. You say that you never have paid any close attention to it?

A. No sir.

Q. You have never paid any close attention to any changes which might have taken place as a result of these severe storms have you?

A. Yes sir, I have looked at them. After a storm I have usually looked very carefully to see what damage it has done.

Q. Have you ever gone ashore at any of these points on this coast extending from Malheureux point to Isle à Pitre, and noticed any changes that have taken place there in the mouths of these bayous and in the interior of these marshes. Whether the water area has increased. Have you ever been ashore to notice these particular things?

A. Yes sir, I have been ashore some on Isle à Pitre. I saw some little changes, but not any thing material.

Q. Have you been ashore at any point between Malheureux point and Isle à Pitre to notice any changes which might have taken place?

A. No sir, not lately.

Q. Have you ever been in the mouths of Three Mile bayou and Nine Mile bayou and Johnson's bayou and Creole gap and these other bayous and passes in order to notice whether they have widened any since your first visit there?

A. No sir, I have not examined them to see whether they have widened or not.

Q. They you know little or nothing about the territory to the westward of Grand pass?

A. Well I know by casual observation. I know that I have sailed along there and looked out.

Q. Well Captain is it or is it not a fact that these musk rats in burrowing under the ground leave a thin crust on top which will give away with the slightest pressure there from a person passing over it or from a body of water?

A. Yes sir, they are subject to be indented.

Q. Is it or is it not a fact that a person traversing these marshes on foot will often find himself going down to the arm pits where these musk rat holes are some times?

A. Yes sir.

Q. You stated that a vessel which had been attached and seized on the Chandeleur islands by the authorities of Jackson county was released because it was found to be beyond the 18 mile limit?

A. Yes sir, beyond the jurisdiction.

Q. How did you derive this information?

A. Well we found out by the limits of the State being 18 miles from the main land, and this was beyond the limit.

Q. Who did you know these things from?

A. My step father was the deputy sheriff and he was talking about it. He could not hold the vessel.

Q. You were only 13 years old then?

A. I was young then but I recollect what they said about it, because there was quite a talk about this vessel being seized out there.

Q. You merely got that as hearsay?

A. Yes sir.

1644 Q. You were not present in the court and saw the papers or any thing of that kind?

A. No sir, I know that he went out there and did this work and come back again. I know that they released the vessel. They put me on a horse and I went up above there 20 miles where the sheriff lived, that caused me to go up there to take the returns to the sheriff.

Q. When was the court house in Jackson county destroyed?

A. I think that it was first burned in 1872 or 1873 and then afterwards I think that it was 1874 or 1875. I am not sure about these dates.

Q. Do you know as a matter of fact whether all of the records were destroyed or whether there were any of them saved?

A. They were all destroyed from what I can learn. Every thing was destroyed in the court house. Nothing was saved. Every thing in the way of records was destroyed. Both of them were wooden buildings. They have a brick building there now.

Q. In regard to your quarantine regulations. I understand you from your testimony in chief that there were no special regulations as to the limit of your quarantine jurisdiction, and you simply passed a regulation that vessels coming from the south of the 29th, degree of latitude should be subject to quarantine and detention?

A. Yes sir, quarantine and detention.

Q. Were your quarantine regulations printed and published?

A. Yes sir.

Q. Have you got a copy or could you get a copy of these regulations?

A. No sir.

Q. There are none of them now?

A. No sir, none now I think. They had to publish them under the law.

Q. How were they published. In a newspaper?

A. Yes sir, in a newspaper.

Q. Was there a paper published at Scranton?

A. Yes sir.

Q. Do you think that could be found in the files of the paper? What was the name of it?

A. It is called the Pascagoula Democrat Star now. I believe that it was the Democrat Star then. A man by the name of Smith was the editor and publisher first there.

Q. When were these regulations of the supervisors in regard to the oyster fisheries and other fisheries first enacted?

A. Well they enacted regulations in regard to oysters and fishing I believe first in about 1876 or 1878, I believe were the first orders that were passed by the board regulating that.

Q. Was this in pursuance of the statutes of the State?

A. I believe the statutes of the State gives the board of supervisors the power to enact such orders to protect fishing and oysters.

Q. Do you know when this statute was passed?

A. Well no sir. It is not in the 1892 Code. The statute was long before that in the old code.

Q. You have spoken about the silt or deposit from rivers helping to build up these marshes and disputed territory. What rivers do you allude to from which the deposit was made?

A. Different rivers. The Pascagoula river for one, and the Mississippi river has gone a good deal down there since it was discovered by De Soto.

Q. You don't mean that the deposits from the Pascagoula river would go far enough west to build up these marshes?

A. No sir, my observation of the river is that islands have grown up from the deposits.

Q. Which river do you mean?

A. The Pascagoula river. I can show you the islands that have grown up there in my recollection.

Q. That would have no effect on the marshes?

A. No sir, the Pascagoula river would not.

Q. You have mentioned the Mississippi river. Do you know what is the demand of Louisiana or Mississippi? Louisiana
1645 was admitted to the Union in 1812 and Mississippi in 1817. Is there any silt of the Mississippi river that goes to the eastward?

A. Yes sir, I believe it does go to the eastward. That is my opinion in regard to these islands. My opinion is that the Chandeleur islands are a deposit of the Mississippi river in years gone by. I think that all of these places are deposits.

Q. Let me point out to you the distinction then. Of course it is pretty well admitted that prior to the stoppage of Bayou Manchac, the River Iberville and all of this territory was made by alluvial deposits?

A. Yes sir, Scranton is on an alluvial deposit from the Pascagoula river.

Q. Do you mean to say since the levees have been established by the State of Louisiana and along the Mississippi river, that there is any silt that comes from the mouth of the Mississippi river that would tend to raise these marshes in dispute?

A. That is my opinion that it does. I don't know that it always did.

Q. Did you ever examine the reports of the Government and the hydrographers and the engineers showing that there is a littoral current that carries all of this soil to the westward and that none of it goes to the eastward?

A. I never have examined their reports about it

Q. You spoke during your examination in chief in regard to St. Joseph island being nearly washed away?

A. Yes sir.

Q. Is it or is it not a fact that Round island has been entirely washed away?

A. I never have heard of its being entirely washed away, but there are Dog Keys between Horn island and Ship island that have been washed away and built up again.

Q. Do you know Round island?

A. Yes sir.

Q. Have you in the last few years passed there?

A. Yes sir.

Q. Have you ever noticed whether that island still appears there or not?

A. Yes sir, Round island. In Jackson county do you mean. What Round island do you mean?

Q. I mean the Round island lying between the north coast of these marshes and the Mississippi coast. Have you ever noticed that?

A. No sir, I have not noticed that.

Q. Have you ever noticed the changes which have taken place in Grassy island and Half Moon island?

A. Yes sir there are some changes in these islands.

Q. What is the change. Has not a large portion of the territory been washed away?

A. Yes sir, by this storm of 1893. That washed away St. Joseph island and some of the points of these marsh islands over there, be-

cause they were directly exposed to the force of the waves and the storm.

Q. Now you say that the storm of 1858 and the storm of 1893 produced very decided and remarkable changes along the Mississippi coast. Do you not say so?

A. No sir, I did not say that. I said the storm of 1858 was the most destructive storm we had done to the coast in the way of destroying bath houses etc., in front of the town.

Q. Then I will ask you. Did not the storm of 1893 produce remarkable changes?

A. Yes sir.

Q. A large portion of the beach along this coast was washed away?

A. It did not affect this coast country of Mississippi as much as the Louisiana coast, because the wind was a different direction. In the storm of 1858 the wind was southeast, and the waves were thrown against this coast, but the other storm started from the north east which blew on the Louisiana coast down in that country, and being from that direction it did not hurt this coast near as bad as the storm of 1858.

1646 Q. Do these great storms not generally originate from the wind blowing from the southeast for some time?

A. Well I have seen two great storms from the northeast. One time the city of Mobile was inundated, and then this 1893 storm.

Q. Do these great storms not generally originate from the wind blowing from the northeast for some time?

A. No sir, they don't originate from that.

Q. Then it is not your opinion and experience that these southeasterly winds blow away these signs by blowing up the water?

A. Easterly winds?

Q. Southeast winds?

A. Southeast winds. Well it does somewhat interfere with some of the passes between the islands. For instance Ship island and Horn island.

Q. Now in the majority of these cases if it be so that these southeast winds fill up and bank up the waters in these sounds and so on. Is it not a fact that very often in these storms the wind shifts around to the northwest?

A. Yes sir, some times it does. From the southwest to the northwest.

Q. Is not the effect of the shifting of the wind around to the northwest to blow out these waters which can readily escape through the passes and blow it through to the territory out to the south. Is not that your experience with the majority of the storms on this coast?

A. Yes sir, when the wind is northwest it blows the water out yes sir.

Q. And this water is banked up in this sound. And is not it blown with tremendous force towards the south?

A. It is blown with considerable force but not with the same amount of sea the southwest wind brings it in.

Q. Have you ever been out in any of these storms?

A. Yes sir.

Q. Have you ever been in the neighborhood of these marshes in these storms?

A. No sir, I never have been on the marsh in a storm.

JACOB CAVATCHOVITCH, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McCLUNG:

Q. How old are you?

A. I was born in 1834.

Q. Where were you born?

A. In Austria.

Q. When did you come to this country?

A. In 1859. In 1858, and then I went away again and then I came back in 1859 and stayed.

Q. Where have you lived since 1869?

A. Any where. I used to live on the Mississippi river, but in the summer time I would come on this coast here.

Q. What were you doing?

A. Fishing oysters in the winter time; in the summer time I would come here on the coast with boats.

Q. When did you first commence fishing oysters in this country?

A. On this side in 1866. On this side of the Mississippi river.

Q. On the east side of the Mississippi river you have been fishing oysters since 1866?

A. Yes sir.

Q. Are you familiar with the marshes?

A. Yes sir.

Q. What do they call these marshes?

A. There is one that we call Blind bay. That was shut up but it is open now. There is Petit pass.

Q. You mean Petit pass that is marked on the map?

A. Yes sir, when you come out from the Rigolets and coming to the marsh you strike then the Petit pass. If you don't go by Nine Mile bayou. You go in Petit pass.

1647 Q. Did you ever go through Nine Mile bayou?

A. Yes sir.

Q. How many times?

A. I have forgotten how many times.

Q. When did you first go there?

A. In 1866.

Q. Where else did you go there?

A. In Bayou Tresor.

Q. They call that Treasure bay now I believe.

A. There is a bayou. You have to pass through the bay and then there is a bayou coming in there. We fished in the bayou at that time.

Q. What sort of a boat did you go down there in?

A. In the Orient. A big boat that carried 160 barrels of oysters.

Q. How much water did she draw?

A. She drew three and a half feet.

Q. Did you ever go through Three Mile bayou?

A. Yes sir.

Q. When?

A. In the same year. In 1856.

Q. With the same boat?

A. With the same boat, yes sir.

Q. How far down did you go through Three Mile bayou?

A. We used to go through Karako and Drum bay and Cat Fish pass. Some times you would fish and make one place and then we would change and go to another, where we would see that there were better oysters.

Q. Did you ever go through Johnson bayou?

A. Yes sir.

Q. Did you ever go through Bayou Pierre?

A. Yes sir.

Q. Grand pass?

A. Yes sir.

Q. When did you go through Grand pass first?

A. I believe that the first time that I went there was in 1868 or 1869 or some where along there.

Q. Did you ever go through Creole gap?

A. Yes sir, Creole gap was first shut up when I first remember it, and then a fisherman cut out there with a spade. It was too far to go to the east end of Isle à Pitre, so they cut out there with a spade.

Q. When was this cut with a spade if you remember?

A. Well I believe that it was in 1867 if I am not mistaken. I can not remember just exactly what year it was.

Q. When were you through these places that I have asked you about. The last time that you went through there?

A. Pretty near every year sir.

Q. Are you in that business now?

A. Yes sir, I am.

Q. You are in that business now?

A. Yes sir.

Q. Do you know where St. Joseph island was?

A. Yes sir.

Q. Grassy island?

A. Yes sir, Grassy island.

Q. And Grand island?

A. Half Moon island now they call it.

Q. Grand island is now what is called Half Moon island?

A. Yes sir.

Q. There is a little island in there that they call Round island?
A. A small piece of it is washed away. Of Round island.
Q. And Petit Pass island. Do you know where that is?
A. Yes sir.
Q. Now these islands and this marsh territory that I have been asking you about. What State are they in. Mississippi or Louisiana?
A. I never heard any thing about it. We used to go inside of the marsh, and we never called any name Mississippi or Louisiana.
1648 Some times we used to ask Where are you going to fish, and they would say I am going to fish in Three Mile bayou. I am going to fish in Cat Fish pass. We did not call the name of it at all.
Q. You never knew about that?
A. No sir, I did not know about that. We never had no trouble there. Nobody ever troubled us there.
Q. Neither Louisiana or Mississippi ever bothered you about it?
A. No sir, only just a few years ago.
Q. Did I understand you to say that with a boat drawing three and a half feet of water you could go through any of these places?
A. Yes sir, or four feet yes sir. We used to go in Bayou Mussell fishing at low tide, and then you would have to stay there and wait until the tide comes and raises you up to go over. In getting fish it was just the same thing. There might be a low tide and you would wait for high tide to come in.
Q. Was there any difference in the marshes as it was then and now?
A. I don't find much difference. It looked like to me that it was just the same. Some times then in low tide you had to lose time in waiting for the tide just the same that you do now.
Q. It is the same now that it was in 1866?
A. Yes sir, it is the same thing now.
Q. That is about 48 years?
A. I don't know how long it is.
Q. 1866–1876—1886–1896?
A. It is about 45 years I believe.

Cross-examination.

By Col. ZACHARIE:

Q. Did you ever hear this territory in dispute called the Louisiana marsh?
A. I heard it about 20 years ago I believe or some thing like that.
Q. They called it the Louisiana marshes?
A. Yes sir.
Q. Were they not always regarded as a part of the parish of St. Bernard?
A. Yes sir, St. Bernard parish used to claim a place up there by—Mulatti bayou—Louisiana used to claim that.

Q. Well the fishermen from Mississippi as well as the fishermen from Louisiana recognized that territory as a part of the parish of St. Bernard?

A. I don't know sir. I could not tell you. We used to go fishing oysters on Pointe à Lahache. That is what they call it. That is on the Mississippi river where there is a church. Before we went to fish in Bayou Pascale.

Q. Well did you fish as low down as California bay?

A. Yes sir.

Q. Did you fish back of the quarantine?

A. Yes sir. When the oysters died here, I don't remember what year it was. Mr. Lopez took a steamboat and took me and showed me the place down there.

Q. That is after the crevasse?

A. Yes sir, after the crevasse. They took the steamboat and took me aboard and I went with them to California bay, and they showed me where there were oysters, and at that time the oysters were dying over here. Yes sir, I was all through the marshes. I can call names by name. In 1866 we made one trip by Point Pirate, and there an old man named Peter Roshandan on there and Castang Jack, we used to call him that down there, and there was a rock on that shore there on the island about a foot and a half square and that rock was there, and I asked the old man what was that rock and he said that it was the Louisiana line.

Q. Where is that?

A. On Pirate point. It was made about a foot and a half square and there was a hole in the middle of it, and a piece of iron in it put in there with lead.

Q. An iron filled with lead?

1649 A. The iron was put in there and the lead was put around it to hold it, and a year or two after that he was aboard out there—I was aboard and out there, I don't remember how long it was. He was on the edge of the marsh, and he told me that he took the rock aboard for ballast and took the iron out. He said before he would go overboard he took it out for ballast.

Redirect examination.

By Gen. McCLURG:

Q. Did you ever pay a license to fish?
A. Yes sir, in this State they make up pay a license.
Q. In Mississippi?
A. Yes sir, in Mississippi.
Q. When was the first year that you paid?
A. I don't remember exactly the year that it was.
Q. 1892. 12 or 14 years ago?
A. Yes sir, some thing like that.
Q. Did you pay it to Mr. Howes at Mississippi City?
A. No sir, I paid it here in Biloxi.

Q. Who did you pay it to?
A. I don't remember. I used to work for Mr. Lopez and he used to make me get the license. He would send for the license.
Q. Under that license where did you go?
A. We went out the same thing in the marsh.
Q. Under that Mississippi license?
A. Yes sir.
Q. And Louisiana did not interfere with you?
A. No sir.
Q. What was this license for?
A. I don't know sir.
Q. Was not it to take oysters?
A. Yes sir to take oysters.

The commission here took a recess until 2 o'clock p. m. for the dinner hour.

The commission reassembled at 2 o'clock with the same present as this morning and the following testimony was taken to wit:

K. L. THORNTON, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McCLURG:

Q. Where do you reside, Mr. Thornton?
A. Pass Christian.
Q. How old are you?
A. 49 years old.
Q. Pass Christian is in Harrison county is it?
A. Yes sir.
Q. Have you ever held any office in this county?
A. I have held the office of justice of the peace of this county.
Q. What years please sir?
A. From about the middle of January 1894 to the first Monday of January 1900.
Q. What district of the county are you justice of the peace of, or were you justice of the peace of?
A. District No. 3.
Q. That embraces the town of Pass Christian does it?
A. Yes sir, that embraces the town of Pass Christian.
1650 Q. I believe under the laws of the State you had jurisdiction of civil matters not exceeding $200 in value and all criminal matters, final jurisdiction of misdemeanors, and you sit as a committing court in felonies?
A. Yes sir.
Q. Tell us please sir where your office was?
A. My office was really my residence. A part of it was a drug store.
A. In what town?

A. In the town of Pass Christian.

Q. Have you ever claimed or exercised jurisdiction as a justice of the peace of Harrison county south of the shore line and if so state how far. How far you claim to exercise such jurisdiction in either civil or criminal matters?

A. I claimed that I had the right to exercise jurisdiction in civil and criminal matters 18 miles from the shore in Harrison county. The distance of 18 miles.

Q. Did any cases ever come before you in that 18 mile limit?

A. A few criminal cases did.

By Col. ZACHARIE: The counsel for Louisiana objects and excepts to any of the testimony of this witness in regard to judicial proceedings had by him whether civil or criminal without the foundation first being laid. The production of the records or proof of the loss destruction or mislayal of that record.

By Mr. MCCLURG: The counsel for Mississippi has not attempted to prove the contents of any judicial record, but merely asks the witness to state as an independent fact whether any cases civil or criminal where the venue was laid to the south of the Mississippi shore ever came up before him and they understand that is all the witness is called upon to answer.

Q. I will now ask the stenographer to read the question to the witness. Did any cases ever come before you in that 18 mile limit?

A. A few criminal cases came before me. There were a few criminal cases came before me of a violation of the county ordinance in reference to the culling of oysters, but the same occurred within three miles of the shore of the town of Pass Christian. Nothing any further out than that.

Q. The venue of these cases was north of the deep water channel?

A. Yes sir, they were north of it.

Q. Who was your predecessor in office?

A. James H. Espy.

Q. Where is he?

A. He is dead.

Q. Who succeeded him?

A. John D. Northrop.

Q. Where is he?

A. In Pass Christian. F. L. Patenotte succeeden John D. Northrop and he is the present justice of the peace.

Q. Were you ever a member of the board of supervisors of this county?

A. No sir.

Q. Were you ever a member of the board of health?

A. I was a member of the board of health for the town of Pass Christian for a number of years.

Q. In what county?

A. No sir, not of the county. As a member of the board of health of the town of Pass Christian we only claimed to exercise jurisdic-

n over the health matters about two or three miles of the shore
ıth of us, and only two or three miles back of the town.
Q. How long have you lived in this county?
A. With the exception of ten years I have lived here since the 2nd
y of December 1865 in Pass Christian.
Q. Well during the forty years, with the exception of ten that you
ve lived in the county and at Pass Christian I would be glad if
ı would tell us if you can what has been the general acceptance
of the people of this county and of the adjoining counties along
51 the coast if you know as to the location of the southern
boundary line of the State of Mississippi?
A. Well as far as I can understand from hearsay and otherwise
ey have all claimed that the southern boundary is 18 miles from
shore, though it was not definitely located at any particular
nt. That is I have never heard them speak of any particular
nds or particular marshes or coast or any thing else as being the
thern boundary, but we have always spoken of it as being 18
les from the shore.
Q. Do I understand from your answer that that has been the
neral understanding during the forty years there in your neigh-
rhood?
A. Yes sir.

Cross-examination.

By Col. ZACHARIE:

Q. Mr. Thornton, since when has this understanding prevailed
t the Mississippi boundary extended 18 miles south from the
ssissippi main land?
A. My recollection was from hearsay when I first came down to
coast as a child.
Q. Was this the general acceptation amongst the fishermen and
people along here?
A. Yes sir, I remember then at that time the people at Pass
ristian. Of course the most of them are dead. I reckon all of
m are dead. I have heard them speak about the Louisiana
ts fishing oysters about Pass Marianne light and in sight of the
re, and some times speaking of going out and running them
ıy from there. That they had no business in that territory.
Q. Is it not a fact that the marsh land which lies south of the
in land of Mississippi, that is south of these islands have been
nerally known by the fishermen and others along the coast as the
ıisiana marshes?
A. I have some times heard them called the Louisiana marshes,
I think they are generally known as the Grand marsh.
Q. Is it not a fact that whenever Pass Christian and these other
ces are visited with mosquitoes, that they are attributed to the
th winds blowing them from the Louisiana marshes. This dis-

puted territory. Is not that the way that they generally speal them?

A. No sir, we only have mosquitoes when we have a west w Not a very hard or a very high west wind.

Redirect examination.

By Mr. McCLURG:

Q. Judge Zacharie asked you about the mosquitoes that gathered over here, and in discussing the matter he says that t are some forty or fifty different varieties, and he has had some cussion as to how far they could be blown by the wind alive, the witnesses. I read in the Times Democrat this morning some scientists advance the theory that the mosquito has 32 te If you have any information on that subject as to how far quitoes can be blown by the wind and how many teeth they h and how many different kinds of species there are I would be to have you put it in the record?

A. I don't know much about them any more than their bi qualities.

Q. Do the- bite like they have teeth?

A. They bite like they might have some thing besides teeth.

Q. Claws?

1652 A. I suppose you might put it daggers. I know that t are a number of varieties. How many I don't know.

Q. What about the distance that they might be carried alon the wind?

A. I don't know that, but I would judge that they might be ried forty or fifty miles without any trouble at all.

Q. You are not up on the subject of musk rats are you?

A. No sir, I have seen a few at Pass Christian. I don't k where they come from.

Q. They were not disturbing the surface of the marsh or hav it to wash away the coast or the marsh to go down with them?

A. No sir, there were alligators in the edges of Pass Christi few years ago. I think there are still some there but I don't k any thing about the musk rats.

Q. I am told that they are the deadly enemy of the musk rat

A. That is what I have heard.

Q. Did you ever from your knowledge and experience during last forty years of this disputed territory and of musk rats, t that musk rats ever had much effect on the location of the bou ary between the States?

A. I did not.

Q. It is claimed by Louisiana that the deep water channel ning out of the mouth of Pearl river and to the north of Half M and Grand islands and the north of St. Joseph I believe, and aro to the southwest of Cat island into the gulf of Mexico, to the of the Chandeliers—. During the forty years that you have li

here state whether or not you know or have ever heard of that channel constituting the dividing line between these two States?

A. I don't know that I have ever heard of it until since this dispute. Just since this suit came up.

J. R. KELLY, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. Where do you live, Mr. Kelly?
A. Gulfport.
Q. In Harrison county?
A. Yes sir.
Q. Do you hold any position in this county?
A. Yes sir.
Q. What is it?
A. Justice of the peace of district No. 2.
Q. How long have you been justice of the peace?
A. Since the 19th of July 1902.
Q. Of what district?
A. District No. 2.
Q. *How long have you been justice of the peace?*
A. *Since the 19th of July 1902.*
Q. *Of what district?*
A. *No. 2.*
Q. That embraces the city of Gulfport?
A. Yes sir.
Q. Have you had before you during that time any civil or criminal cases where the venue was south of the shore line at Gulfport?
A. Yes sir, I have.
Q. Where were they. Where was the venue?

By Col. ZACHARIE: The counsel for Louisiana makes the same objection and exception as entered before to similar testimony.

A. Well I had several cases under this new oyster law, and I had one case from Cat island, that is about nine miles from Gulfport.
Q. How far south of the shore line at Gulfport does your jurisdiction extend?
1653 A. We consider it 18 miles. It takes in Cat island and Ship island.
Q. Why do you fix it at 18 miles Mr. Kelly. Why do you fix the limit at 18 miles?
A. That is what the general understanding has been ever since I have known any thing about it. Since I have been here.
Q. Is that southern limit of Harrison county to the limit of the State of Mississippi?
A. Yes sir, it is 18 miles out.
Q. Where is the court house of Harrison county?

A. It is in Gulfport.

Q. How far is it from the shore?

A. About 500 feet.

Q. How far is it from the court house to the northern limit of your county?

A. I think that it is 42 miles, but I am not sure. I know where the line is very well. I know where the county line is. I think that it is 42 miles.

Q. It is shown that the bay of Biloxi is on the eastern line of this county. How far is it from your court house to the bay of Biloxi?

A. It is about 13 and one half miles I think.

Q. Bay St. Louis is shown to be the western boundary of your county, of Harrison county. How far is it from the court house to this bay?

A. It is about the same distance.

Cross-examination.

By Col. ZACHARIE:

Q. Mr. Kelly will you look at the map and see that broken portion south of the main line of Mississippi. What name has that been known by amongst the fishermen and the people generally. Has it not been called the Louisiana marshes?

A. You mean south?

Q. Yes sir?

A. No sir, southwest. The Louisiana marsh is out that way, but I have always understood that the Louisiana marsh was 35 miles from Gulfport. That is where those oysters come from. I never have dealt in oysters and I don't know very much about it.

Q. I am not asking you what you have understood. I am asking you as to the general name common to that section of the country lying between Malheureux point and Isle à Pitre. What is that generally called amongst the people along this coast and amongst the fishermen. Is it not called the Louisiana marshes?

A. I can not answer it because I never have been out there. I understand that the Louisiana marshes are out that way.

Q. I am not asking you if you have ever been out there. I am asking you what that territory is called the Louisiana marshes?

A. Will have to answer it as I did before. I have heard that the marshes are out that way.

Q. Are you not willing to say that this particular territory is called the Louisiana marshes?

A. No sir, I am not.

Q. How did you derive your information that the southern boundary of Mississippi extended 18 miles south of the main land and south of the east mouth of Pearl river?

A. I just got it from the lawyers. They said it was the general understanding that Mississippi extended 18 miles out.

Q. You say that you got it from the lawyers?

A. The lawyers and general information around.

Q. Did you ever hear it discussed amongst the ordinary run of people. The laity. That is the ordinary run of people. You never heard it discussed among them did you?

1654 A. No sir.

Q. You do not know do you that in the act admitting Louisiana all the islands within three leagues of her coast were declared to be within her boundaries. In the act admitting the State of Louisiana into the Union, the islands within three leagues of her coast were declared to be within her boundaries. You have never taken the trouble to investigate that have you?

A. No sir.

Q. The territory that you have spoken of as the Louisiana marshes. Is that the territory from which the great mass of oysters are brought to this coast?

A. I understand that it is yes sir.

Q. Then if the large amount of oysters that are brought here come from the Louisiana marshes, and the large amount of oysters are brought from this territory in dispute, then it would fix in your mind that this territory was called the Louisiana marshes?

A. Well I just heard that it was the Louisiana marshes. I never have investigated it.

Q. Was it not the common saying among the people along this coast when you have a plague of mosquitoes that they come from the Louisiana marshes?

A. Come from the marshes. We don't say Louisiana marshes.

Q. As a matter of fact what direction do they come from?

A. Well these last come from out in the woods.

Q. What direction by compass?

A. That is north.

Q. What is the generality of the direction from which they come ordinarily?

A. Well that is what they say along here. From the south west.

Q. Well these marshes that you have spoken of as the Louisiana marshes are to the southwest of Gulfport?

A. Yes sir.

Q. Now is it not a common saying when you have these mosquitoes that they come from the Louisiana marshes? Is not that the common expression along the coast here?

A. That they come from the marshes when they come off the water.

Q. I am speaking of the common expression when the mosquitoes are abundant here. That they come from the Louisiana marshes?

A. Yes sir, they come from the marshes.

Q. You are not willing to say that the people do not say that they come from the Louisiana marshes?

A. Some do, but the common expression here is from the marshes.

Q. And some of them say that they come from the Louisiana marshes?

A. Yes sir, Louisiana marshes.

Q. You have spoken of a case that came from Cat island before you as justice of the peace. What was the character of this case. Civil or criminal?

A. Criminal.

Q. What was the charge?

A. Assault and battery.

Q. It came direct from Cat island, did not it?

A. Yes sir, the difficulty occurred on Cat island.

Q. On the western or the eastern coast of Cat island?

A. I would consider it on the northern shore of it.

Redirect examination.

By Gen. McCLURG:

Q. How far is Cat island from Gulfport?

A. Now there is a little difference in opinion. The keeper claims that it is nine miles.

Q. What keeper?

A. The keeper of the light house. Capt. McCall. Nine miles from the light to Gulfport. Now the east end of this island
1655 is a little nearer.

Q. You have been asked about what these marshes were called out there. State whether or not you have ever heard them called Grand marsh?

A. Yes sir.

Q. Is that in the same direction as the Louisiana marsh?

A. Down in the marshes. Grand marsh.

Q. You have never been down there in that section.

A. No sir.

F. W. ELMER, being recalled on behalf of the State of Mississippi testified as follows:—

By Gen. McCLURG:

Q. Mr. Elmer, were you ever a member of the county board of supervisors of Harrison county?

A. Yes sir.

Q. When?

A. Possibly ten or twelve years back. I have not fixed the date in my own mind. I was on the board some eight consecutive years.

Q. In the exercise of jurisdiction conferred by the constitution and statutes of the State upon this board. I believe that the board has jurisdiction co-extensive with the county has it not?

A. Yes sir.

Q. I wish you would state whether or not the board claims or exercises any jurisdiction south of the shore line of the county and if so how far?

A. Well I don't know if while I was a member of the board if we exercised any certain jurisdiction but it is an indisputable fact that we always claimed jurisdiction for the 18 miles south. I can not say that the exergency arose while I was there, and that we had to assert it.

Q. Were you ever a member of the county board of health?

A. No sir.

Q. You never have been a member of that?

A. No sir.

FRED. H. MCCALEB, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. Where do you live?

A. Biloxi, Mississippi.

Q. How long?

A. 58 years. I was born and raised right here in this town.

Q. Have you held or do you hold now any official position in this county?

A. No sir.

Q. Have you ever held any?

A. Yes sir.

Q. What was it?

A. I have been a member of the board of supervisors.

Q. When?

A. The best that I can remember was in 1888 to 1890. I would not be positive now, it has been so long ago, but I am almost certain of it.

Q. During the time that you were a member of the board of supervisors of this county, did the board have authority to pass quarantine regulations, and regulations for taking and fishing oysters?

A. Yes sir.

Q. In the exercise of this authority and jurisdiction how far south of the shore line did you claim to exercise jurisdiction?

1656 A. We claim back to the State limits.

Q. Where did you claim the State limits to be Captain?

A. The State limit was 18 miles. Six leagues or 18 miles.

Q. From where?

A. From the main shore.

Q. During the 58 years that you have lived here, and which I understand to be all of your life, can you say what the general understanding and acceptation of the people of this county has been as to the limits of the State and county boundary?

A. Well as far as I have always heard them express their opinions about it, it has always been as laid down in the Code, 18 miles.

Q. From the shore?

A. From the main shore including all islands.

Q. It is claimed by the State of Louisiana in this suit that the real line between the two States follows the deep water channel which flows out of the mouth of Pearl river north of Grand and Half Moon islands, and Brush island in the neighborhood of St. Joseph and around to the southwest of Cat island. If you have any knowledge or information which goes to establish that channel as the line between these two States I would like for you to state what it is?

A. No sir, I have none.

Q. You never heard any thing of that sort?

A. Nothing of it before this controversy came up.

Q. You never heard of it before this controversy came up?

A. No sir.

Q. You know where the marsh is to the southwest of here?

A. Yes sir.

Q. Were you ever there, Captain?

A. Yes sir, I have been there.

Q. How long ago?

A. That would be right hard to say. I have not been in the marsh for ten or fifteen years.

Q. What do they call that marsh down there?

A. It used to be called the Grand marsh.

Q. Have you ever heard it called by any other name lately?

A. It is the Louisiana marsh now.

Q. How long since you first heard it called the Louisiana marsh?

A. I could not say that, I have heard it called the Louisiana marsh out there for some time before the Louisiana controversy came up, but how far south they claimed that as the Louisiana marsh I could not say that.

Q. Could you say whether or not there is a marsh to the south of our 18 mile limit?

A. Yes sir, that is if I understand you right. There is a marsh south of our 18 mile limit.

Cross-examination.

By Col. ZACHARIE:

Q. Captain McCaleb, has it or has it not been the expression as to the large amount of oysters brought to these canneries here. Is it not that they come from the Louisiana marshes?

A. Before this controversy.

Q. I am speaking about before this suit or controversy arose. For instance I have been visiting this coast since I was a child, and I have always heard and been told by these people here that that territory over there was called the Louisiana marshes.

By Mr. McCLURG: Counsel for Mississippi excepts to this statement by the counsel for Louisiana.

By Col. ZACHARIE:

Q. Is my statement borne out by them now?

A. No sir. You say that since you have been coming here that it was always called the Louisiana marsh. They might have
1657 called it that to you but the old citizens around here called it Grand marsh.

Q. You stated in your examination in chief that it was called the Louisiana marsh You stated that it was called that before this controversy arose?

A. Well I have heard it a short time before this you see, I suppose it has been about five years now, but before that it was always called the Louisiana marsh.

Q. Is it or is it not a fact that whenever you have a plague of mosquitoes here that the general expression is that they come from the Louisiana marshes, meaning that territory?

A. Some times they come from the Louisiana marshes and some times they do not. It is according to the way that the wind blows.

Q. If there is a south breeze blowing is it not a general expression that the mosquitoes come from the Louisiana marshes, meaning this disputed territory?

A. I have heard of them coming from the Louisiana marsh, and I have heard of them coming from the Grand marsh. Both places.

EARNEST DESFORTS, a witness recalled on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Mr. McCLURG:

Q. I understand that there is and has been for a long number of years a board of pilot commissioners in this county?

A. Yes sir.

Q. And I presume for each county bordering on the coast?

A. Yes sir.

Q. Were you ever a member of that board?

A. No sir.

Q. You have been a pilot?

A. I am now a pilot and I have been for six years previous to this. I was harbor master of Ship island and I am now a pilot.

Q. Subject to the orders and the jurisdiction of that board?

A. Yes sir, the board of pilot commissioners.

Q. They license you?

A. Yes sir.

Q. Well under that license what is your duty as a pilot?

A. The duty is to pilot the vessels coming in and going out of any of the ports leading into this county.

Q. How far does this license authorize you to go?

A. Ship island. Outside of Ship island.
Q. Outside of Ship island?
A. Yes sir.
Q. Are there any passes outside of Ship island that it is nec
for you to pilot boats through?
A. No sir, the Ship Island bar is on the south side of Ship i
About a mile. That is the bar where the licenses go.
Q. How far is that limit that you take boats from the sh
Biloxi?
A. Between 13 and 14 miles.
Q. How far is it from Gulfport?
A. I would judge that it was about the same distance of ma
little less.
Q. How far from Pass Christian?
A. The course from Gulfport would be south east. I su
about 18 miles from here.
Q. How far would you say that a pilot's license of this co
would have to take a boat out of Bay St. Louis?
A. We would have no jurisdiction in Bay St. Louis. That
Hancock county.
Q. Is not the middle of the bay the dividing line between H
son and Hancock counties?
A. Yes sir.
1658 Q. One coming out of the bay through this count
would be your duty to take it out?
A. Yes sir.
Q. How far would you have to carry it?
A. I never have measured the distance. I would suppose in
neighborhood of 25 miles perhaps.
Q. Is it necessary at any point 18 miles from the shore of
county for you to carry a boat. To pilot them out or in.
necessary for you to go as far as 18 miles?
A. No sir, I have never handled a vessel any further than f
Ship island to Gulfport. There outside of Ship island into
Gulf would be perhaps 13 or 14 miles or some thing like that,
after we cross the bar on the outside of Ship island then we
done with the vessel there, but we go out as far as Chandeleur
ands and get aboard of the vessels there. We can get aboard of
vessels on the outside. When we get aboard of a vessel we t
command of it, and the captain turns her over to the pilot and
bring her in.
Q. How far is Chandeleur islands from the Harrison Cou
shore?
A. The north end of the Chandeleur islands is about 20 mil
Maybe 21 or 22 miles in a direct line.
Q. Any boats coming into Gulfport or Biloxi or any other port
Harrison county you go to the Chandeleurs and bring them in?
A. We go out in that direction, and any where we find them
take charge of them out there, but previous to my appointment

harbor master or pilot; the pilots of Ship island and the harbor master of Ship island always handle the vessels coming into Chandeleurs quarantine, when the quarantine was established at Chandeleurs and destroyed in 1893, that was previous to my appointment even as harbor master, and all pilots handling these vessels came into the Ship Island quarantine.

Q. Where did you get your appointment as harbor master?

A. From the board of pilot commissioners.

Q. And they got their authority under the laws of the State of Mississippi?

A. Yes sir, they are appointed by the board of supervisors of each county. There are pilots in Biloxi today who will tell you that they have handled these vessels 29 or 30 years off of Chandeleur when the quarantine was there.

FRIDAY MORNING, June 24th, 1904.

The commission met this morning at 9 o'clock and there were present Hon. William D. Ballard, commissioner, Gen. Monroe McClurg, on the part of the State of Mississippi as counsel, and Col. F. C. Zacharie, counsel on the part of the State of Louisiana, and the following testimony was taken, to wit:

R. M. MOSLEY, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McCLURG:

Q. Mr. Mosley, where do you reside?
A. Biloxi, Mississippi.
Q. How long have you resided in Biloxi?
A. This next month will be eight years.
Q. How old are you?
A. I am forty years old.
Q. What is your occupation?
A. I am chief oyster inspector.
Q. How long have you been chief oyster inspector?
A. The first of September will be two years. Ever since
1659 this new law went into effect.
Q. You mean the law of 1902?
A. Yes sir.
Q. You were appointed then oyster inspector under the law?
A. Yes sir, under the law.

By Gen. McCLURG.—NOTE.—The counsel for Mississippi will introduce in evidence in this case the law to which the witness refers; all of the laws of the State of Mississippi, including the ordinances passed by the board of supervisors of the counties of Jackson, Harrison and Hancock bearing upon the authority for the passage of ordinances by these counties, and also upon the subject of quarantine and pilot commissioners.

Q. What is your duty in filling the office of oyster inspector?
A. Well my duty is to see that all oysters that are caught culled properly according to this law and to collect all of the t due the State of Mississippi under the oyster law.
Q. Over what territory have you jurisdiction?
A. The State of Mississippi.
Q. That includes these three coast counties?
A. Yes sir, these three coast counties.
Q. During the last oyster season, which as I understand it beg on the first of September and runs to the 1st of May?
A. From the 15th of September to the 15th of May.
Q. I wish you would just state about how many barrels of oyst for all purposes have been handled at Biloxi?
A. About 500,000 barrels in the town of Biloxi. Now that is sides the private bedding grounds. That is what they pay taxes I collect these taxes at two cents a barrel.
Q. What would you estimate the out put of the private beddi grounds about the city of Biloxi?
A. Well I suppose that it will run between 20,000 and 30,0 barrels, maybe more. That is as near as I can get at it.
Q. From what territory now was this five hundred and twenty five hundred and thirty thousand barrels of oysters taken?
A. They were on what we call the Pass Christian reefs and Isle Pitre, and Grand Pass and Half Moon. And all of those reefs o there, to St. Joseph light.
Q. None of them were taken from what we call the Grand marsh
A. No sir, none of them were taken from what we call the Gran marsh.
Q. If I am correctly informed the oyster commissions hav entered into some kind of an agreement by which the Mississipp oystermen do not go into the Grand marsh?
A. Yes sir.
Q. Beyond Grand pass?
A. Beyond Grand pass. That is a sort of neutral ground.
Q. You mean that it is neutral so far as Mississippi is concerned
A. It is neutral this side. Louisiana and Mississippi both fish o this side of Grand pass, but in the marsh they don't allow Missis sippi to go in at all. The two commissions met in 1902 I believe and established the line.
Q. I believe that you are not a party to the crime committed against the State of Mississippi which prohibited Mississippians from going into this territory?
A. No sir, I was not.
Q. Mississippians however as I understand it have been respect- ing that agreement?
A. Yes sir.
Q. Do you know of any authority under the law for the oyster commission of this State or of the State of Louisiana to enter into

such an agreement as that and bind the people of the two States to it?

A. No sir, I do not.

Q. I would be glad to find some man that does?

A. I have been all over those places out there.

Q. I understand that there is a tax fixed as you stated awhile ago upon the oysters taken in this territory where by the grace of the commissions Mississippians may take oysters. What is that tax?

1660 A. Two cents a barrel that is on the oysters. They pay a privilege on their boats of so much a ton.

Q. If you can recollect I wish you would state about how much the sum total of the two cent tax has amounted to during last season?

A. It will run something over four thousand dollars. About that.

Q. The two cent tax?

A. Yes sir, the two cent tax.

Q. That is for your territory?

A. Yes sir.

Q. And the privileges amount to how much?

A. I can get pretty close to that. We have got about 300 boats or 350. They will average five dollars a boat privilege. That is $1500, and we have eight factories and that is $800, and then on the raw oyster shops about $400. They are $25.00 a piece.

Q. The sum total then would amount to about what?

A. Say about $2800.00. That is for the revenue of the factories. The other is for the two cent tax.

Q. I mean altogether. The two cent tax and the privilege tax on factories and boats?

A. We collected this year some thing over $17000 all told. That is for the three counties.

Q. And outside of the marsh?

A. Outside of the marsh. You know another thing. You know what they call the neutral territory out there we don't collect any taxes. We have boats to fish in there and carry them to Louisiana but we don't get any taxes for them.

Q. Louisiana prohibits any oysters being taken from her territory and taken out of the State?

A. Yes sir, under this agreement on both sides fishing out there each side collects what is coming to it.

Q. Under this unlawful rule made by the oyster men?

A. Yes sir, I don't know what right they had to do it.

Q. They were the Solomen Zars of Louisiana and Mississippi. Well eight years ago when you first came here were there or were there not any of these restrictive rules that you speak of as to the place for taking oysters?

A. No sir, there was not. The boats went and got oysters anywhere. There was not any tax on them at that time.

Q. What have these marshes down here been called?

A. Grand marshes.

Q. Have you not some times heard them called Louisiana marshes?

A. Yes sir. I have heard that the last few years. I have heard that when I first came here.

Q. What has been your understanding Mr. Mosley during the eight years you have passed on the coast as to the limits of the territorial jurisdictional boundaries of the State of Mississippi?

A. Well I have heard these fishermen say that Pearl river was our dividing line.

Q. How far south?

A. Well all of these boats fished—you can find oysters in what they call the marsh, and they fished all down in there.

Q. Were you ever down in this marsh?

A. Yes sir, I have been in there.

Q. Have you ever fished oysters in that marsh?

A. No sir, I never fished for any oysters. I have fished for fish, but I never fished any oysters there.

Q. How far in the marsh, or how far from the south of the Mississippi shore is the southern boundary line of Mississippi?

A. The southern boundary line of Mississippi is six leagues. That is what I have always understood from the code and the books and everything that I have read.

Q. State whether or not you have understood that to be the boundary line and her territorial jurisdiction that far during the eight years you have been here?

A. Yes sir, I have always understood that. One reason why I understood it that way. I was an officer before I was chief inspector, and if any thing happened out there they would report it to me.

1661 Q. What office did you have?

A. I was marshal of the city of Biloxi.

Q. And I believe *ex-officio* constable for your beat?

A. Yes sir, I have arrested people at Ship island.

Q. How far is Ship island from here?

A. About 12 miles.

Q. And if there were any matters cognizable by the courts either civil or criminal between here and Ship island would your courts take possession of it?

A. Yes sir, I recollect one time I think I got 14 men out there and brought them in here.

Q. Now to the eastward of this neutral line, unlawfully established, or sought to be established unlawfully by the oyster commission of these two States, being due respectively to the people of Mississippi going southward from the shore line through Grand pass to the east of Isle à Pitre. How far does your jurisdiction as oyster commissioner extend from the shore southward?

A. From this shore here?

Q. Yes sir.

A. Well the way that I understand it it would be 18 miles.

Q. Have you been doing that since you have been oyster inspector?

A. Under this agreement?

Q. I am talking aside from that agreement.

A. Yes, sir, always 18 miles. I always consider it my duty. If there was any violation there I would go there and arrest them the same as if it was right here.

Q. Who issues the licenses to the factories and the boats now?

A. The secretary of our commission.

Q. Who is he?

A. F. S. Hewes.

Q. He is the chancery court clerk of this county?

A. No sir, he is the son of the chancery court clerk. It is F. S. Hewes, Jr.

Q. Under this license where can these boats and these factories take oysters?

A. They can take them anywhere 18 miles from the shore line. Take Bay St. Louis, and anywhere from the shore they can take them that way in the State of Mississippi within six leagues of the shore.

—. Then I understand that after respecting this supposed agreement between the two oyster commissions that the oyster commission of Mississippi exercises jurisdiction otherwise 18 miles from the shore line?

A. Yes sir, generally, I will tell you they made that agreement. Whenever a boat would come to me and aske me a question about it. They would come to me for information about fishing. I would tell them that they could go 18 miles to fish. If they kick about it I says Let them arrest you. They won't arrest you but once.

Q. Do you know what the penalty in Louisiana is for violating her oyster laws?

A. No sir, I do not. I have forgotten it.

Q. They make it a penitentiary offense. Has that severe penalty any effect in keeping our men out of there?

A. Yes sir, I think they would be scared to death to go in there. You know they got one boat over there and claimed that it had been confiscated.

Q. Can you tell me whether or not Louisiana boats take out any license in this State?

A. They do not. I know that they do not.

Q. I have here a list of licenses issued by authority of the laws of Mississippi in 1892, 1893 and 1894, which I propose to introduce in evidence today, and I will ask you to run through this list, and tell me whether you recognize the name of any boats belonging to Louisiana that took license in this State during those years and if so name them?

A. That is further back than I am able to state. That was before I came here.

1662 Q. The bill of complaint alleges in this case that the deep water channel, or what is shown on the face of the chart to be the sailing line, extending from the eastern mouth of Pearl river through the upper corner of Lake Borgne, north of Half Moon island and eastward to Cat Island pass, north of Isle à Pitre and southwest of Cat island which has been buoyed by the Coast Survey of the United States Government as the true dividing line between these two States. I wish you would please tell us whether you so understand it, and what information you may have as to that being the dividing line between these two States?

Q. You mean at Cat island down there?

Q. Yes sir?

A. Well I did not understaud that as the dividing line.

Q. Have you ever understood that to be the line between these two States?

A. No sir.

Q. This bill further alleges substantially that prior to the date of its filing, which was in the latter part of the year 1902, in October, 1902, that the affairs, referring of course to the taking of oysters by the two States, had reached such a crisis that it became necessary to avoid an armed conflict between the sheriff or officers of the parish of St. Bernard, and the sheriff and officers in Harrison county, State of Mississippi, that steps be taken to establish the boundary between these two States in the waters lying between them. If you have any knowledge or any information of any actual or threatened conflict between the officers of St. Bernard parish and the officers of Harrison county, Mississippi I wish you would tell us?

A. When was this?

Q. Prior to October 1902?

A. That is the first that I have ever heard of that. I have been out there since 1902 every week or two and I have never had any trouble.

Q. Have you ever heard of any threat of a conflict between the officers of Louisiana and Mississippi on this subject, and if you have I would be glad for you to state it?

A. No, sir, I have never heard a word of that. That is a new one.

Q. If you have ever heard of any such declaration since you have been here, I would be glad if you would state it?

A. No sir. I never heard anything about it. I never heard any thing of it.

Cross-examination.

By Col. ZACHARIE:

Q. Mr. Mosley you say that you have heard a portion of this territory here in dispute in this suit called the Louisiana marshes?

A. Yes sir.

Q. When did you hear it called that?

A. Well I have heard it in the last two or three years.

Q. Now is it not a fact that since time immemorial that territory has been called all along this coast the Louisiana marsh?

A. I could not tell you. I have not been down here. I don't know much about it until eight years ago.

Q. You are positive that is only within the last two years since this suit was started?

A. That is the first I heard of it Judge. Of course I could not say about it before that time I have heard it called Grand marsh.

Q. When Mr. Mosley was there any law first of Mississippi or regulation of the oyster fisheries in Mississippi?

A. Well now that is some thing that I cannot tell you. That is before my time. I understand that there was some law in Mississippi before the board of supervisors took hold of it. Of course I don't know about that.

Q. Well now according to the best of your knowledge and recollection, when — the first law was passed or ordinance in re-
1663 gard to the culling of oysters and making a close season during the spawning season?

A. You mean under this law that we are working under now?

Q. Yes sir.

A. I think that is January 1st, 1902.

Q. Prior to that time was there in existence any law or ordinance in regard to the culling of oysters or prohibiting fishing during the spawning season?

A. I understand there was. That is about the spawning season. I don't know about the culling.

Q. About what time as near as you can remember was this law passed?

A. No sir, I could not tell you when the law was passed. I don't know *know* about that. That was before my time. The reason I know about the season, they closed up here on the first of May. They told me that it was the law to close down on the 1st of May, and no boats could go out after that. That is the way I understood it. A boat that was out on the first of May had to come in. They could not fish out there.

MIKE LANIUS, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. Where do you live Mr. Lanius?

A. Biloxi, Miss.

Q. How long have you lived here?

A. For 56 years.

Q. What has been your occupation during that time?

A. Well up to the war I was pretty young and did not do much

of any thing. I just knocked about the boats. When I was a little over 14 years of age I joined the army, and I came back in 1865, and followed the lakes; the water between New Orleans and Mobile, as far down as Pascagoula and Sabine pass. I got married in 1870 and settled down in Biloxi. Shortly after the oyster business started here I went into the oyster business. I steamboated a good deal between New Orleans and Mobile on the Morgan line of steamers. The steamer Creole and the New Chameleon, running between Pass Christian and Biloxi, and Pascagoula once a week. In the winter time on the Morgan boats from New Orleans to Mobile before this railroad was built carrying cotton and passengers.

Q. You commenced this business when?

A. In about 1866.

Q. How long did you follow it continuously Mr. Lanius after that?

A. Well up to 1870 that is steamboating and schoonering on the lakes.

Q. How long after that?

A. Well almost up to the present time. About three years ago. In the summer time I was on a lumber boat and charcoal boat running between New Orleans and Mobile.

Q. Since 1866 you have been on the waters pretty well all of the time?

A. Pretty well all of the time until the last three years.

Q. In what capacity were you? Master or pilot or what?

A. Every thing from deck hand up to master.

Q. Are you familiar with the waters between Pearl river and Pascagoula, referring to the marsh lands to the south of Pearl river?

A. Yes sir, I am to the marsh.

Q. What part of the marsh have you been in?

A. Well I have been in Grand pass, and in the mouth of Creole gap, and in the mouth of Three Mile bayou; Grand pass and Three Mile bayou with steamboats. Three Mile bayou towing barges. Oysters were caught in the marsh with tongs, and they come over these bars and I towed them to Biloxi.

Q. When were you first out at these places?

A. That is about seven years ago.

1664 Q. The first time that you were there?

A. Yes sir, the first time I was there with a steamboat. I have been there shrimping and such things as that. I have fished oysters off Grand pass.

Q. When?

A. In 1897.

Q. Were you ever in the neighborhood of Door point and Sundown island and Brush island?

A. Yes sir, I went through Grand pass on a schooner and went that way.

Q. Drawing how much water?

A. About three and a half feet.

Q. When was this?
A. That was about 1895.
Q. In 1895?
A. Yes sir, 1895.
Q. How far did you go down?
A. I went to Door point and by Brush island.
Q. When you were at Door point and Brush island what State were you in Louisiana or Mississippi?
A. We thought that we were in the jurisdiction of Mississippi.
Q. Why did you think so Mr. Lanius?
A. Well they claim that this 18 miles strikes in just about Door point. You understand that is the 18 mile line south of the mouth of Pearl river.
Q. How far south of the main shore line of Mississippi did you understand Mississippi's jurisdiction to reach?
A. Six leagues or 18 miles.
Q. How long has that been your understanding?
A. I guess it was for thirty-five years.
Q. Louisiana has attempted to establish the channel which comes out of the Rigolets and Lake Borgne, north of Half Moon island, formerly called as we understand it Grand Island and as far as Cat island, and between Cat island and Isle à Pitre around into the Gulf, as the true dividing line between the States of Louisiana and Mississippi. I wish you would tell the court what you know or have been informed as to that line being the true line between these two States?
A. I know nothing about that being the line, and I never heard that it was the line. Now the channel did not run north of this Half Moon island.
Q. North?
A. It runs north of Half Moon island until it gets to St. Joseph, and you shift your course to the south of eastward, to the red buoy off Goose point and you take your course down by the Chandeleur islands.
Q. Who buoyed it there?
A. The United States Government.
Q. When?
A. I could not tell you. It is buoyed since I can recollect.
Q. What was it buoyed for?
A. To show where the deep water was.
Q. Do you mean by that the sailing line?
A. Yes sir.
Q. That is the deep water channel?
A. Yes sir, it is the only deep water entrance that there is into Lake Borgne and Lake Pontchartrain.
Q. Have you ever known or heard of its being the line dividing these two States?
A. No sir, I never did.

Q. You spoke of Grand pass. That is to the westward of Pitre, is not it?

A. Yes sir, it is.

Q. Can you sail around Grand pass in a boat. Can you around it?

A. Go around it?

Q. Around the pass, yes sir?

A. Yes sir, you can go through it and come back and go thr it again.

Q. What is an island?

1665 A. It is a piece of land surrounded by water.

Q. Is Isle à Pitre an island?

A. Yes sir.

Q. Can you sail around Grand pass and around through John bayou?

A. I don't know anything at all about Johnson's bayou.

Q. Three Mile bayou?

A. I never have been through that either.

Q. You have been only in the mouths of the bayous?

A. In the mouths of the bayous I have not had any thing t with the sailing vessels inside there?

Q. When did you first see what they call Grand marsh?

A. 1858.

Q. When was the last time that you saw it?

A. Last April was a year ago.

Q. I wish you would state whether you have noticed any s sidence of the marsh or whether it is sinking in from the first ti that you saw it, and whether there has been any violent or mater change in the coast line of the marsh from the first time you saw until the last time.

A. No sir, there has not. It looks like the same thing to me.

Q. There is no sinking of it?

A. No sir.

Q. You never noticed any thing of that kind?

A. Wha- do you mean. The land sinking?

Q. Yes sir?

A. No sir.

Q. Was it as high above the mean tide and sea level when yo last saw it as it was the first time that you ever saw it?

A. Yes sir, I could not locate any change. If there had been an of it washed away or any thing like that I would have noticed it.

Cross-examination.

By Col. ZACHARIE:

Q. I understand you to say Mr. Lanius that when you spoke about towing with a steamboat and so on that you never entered into this territory. This marsh. That you simply went in the mouths?

A. I never have been oystering since this dispute came up.

Q. Have you ever been to the interior of these marshes? In from the shore line?

A. I suppose I have been in a mile or a half mile or some thing like that except Grand pass, I have been through that, and Isle à Pitre and Jack Williams bay.

Q. Did I understand you correctly to say that any change in the general aspect of this territory; that you had never made any close observation for any change?

A. No sir, I did not. I used to be out there a good deal at one time shrimping. That was in the summer time.

Q. You never paid any particular attention to any changes?

A. No sir, I did not.

Q. You never observed whether the mouths of these bayous had been enlarged, or whether there was more water in the interior or whether the land had subsided or was sinking or any thing of that kind?

A. No sir.

W. A. TERRELL, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McCLURG:

Q. Where do you live Mr. Terrell?

A. At Pass Christian.

1666 *A.* How old are you?

A. 56.

Q. How long have you lived at Pass Christian on the Mississippi coast?

A. Thirty some odd years. I think that I went there in 1866 or 1867, I disremember now.

Q. What is your present occupation.

A. Saloon keeper.

Q. Have you ever held any office in the State of Mississippi?

A. Yes sir, I have been justice of the peace some twenty odd years ago. Since that I have held little local offices there. Town marshal, councilman, and so on.

Q. Have you ever been a member of the board of supervisors?

A. No sir, I never was.

Q. Were you ever a member of the board of health?

A. No sir.

Q. I understood you to say that some twenty years ago you were a justice of the peace of Harrison county?

A. Yes sir. District No. 3.

Q. District No. 3 of Harrison county?

A. Yes sir.

Q. That included the town of Pass Christian?

A. Yes sir.

Q. While you were justice of the peace some twenty years ago of district No. 3 of Harrison county, over what territory did you exercise jurisdiction?

A. I understood that I could exercise it for 18 miles due to the south and up to the lines of my district.

Q. North?

A. Yes sir, north. And east.

Q. Where was the eastern boundary of your district?

A. It was somewhere up about Long Beach. I don't know exactly where it was, but it was somewhere in the neighborhood of Long Beach.

Q. That is the eastern boundary?

A. Yes sir, the eastern boundary. The western boundary of course is at Bay St. Louis.

Q. I understand you to answer that you understood that you had jurisdiction 18 miles to the south?

A. Yes sir.

Q. South from what point?

A. From the coast line.

Q. The coast line?

A. Yes sir.

Q. Were you ever in the marshes?

A. Well yes sir, to some extent, not very much, but I have been all along there mostly on the outside. I never have been way back in the marshes.

Q. Do you know how far it is from Pass Christian to the first touch of the marshes?

A. I could not say that I do. It must be some eight or nine miles or probably ten. I could not say.

Q. That would bring seven or eight or ten miles of the marshes in your jurisdiction?

A. Yes sir.

Q. What have these marshes been called since you have been acquainted with them?

A. They usually call it Grand marsh. Some times I have heard it called Louisiana marsh. Different people have different names for it.

Q. Is Isle à Pitre within your jurisdiction?

A. Yes sir.

Cross-examination.

By Col. ZACHARIE:

Q. Which marshes were you speaking of?

A. Just south from our line. They lay from the west southwest from here.

Q. These marshes were generally called the Louisiana marshes, were not they?

1667 A. Some times some people have one name for them and some another. Generally they call them the Grand marsh or Great marsh.

Q. How long have you heard them called Louisiana marshes?

A. Some people called it the Louisiana marsh ever since I can remember. Some people have one name for it and some another.

Q. Is it not the common expression over this coast when the wind is from the south and the mosquitoes come they say that they come from the Louisiana marshes?

A. We don't have them from the south. The south wind never brings us any mosquitoes. I wish the wind had been blowing that way the last few days.

Q. From what source did you consider that your jurisdiction extended 18 miles south from the Mississippi shore?

A. I first gathered it from reading the boundary lines of the State, and it seemed to be generally accepted by every one that I came in contact with. The question was never particularly raised.

Q. Have you ever read the act admitting Louisiana into the Union?

A. No sir.

Q. You have gotten it simply from the laws of Mississippi and your Code?

A. Yes sir, but it was never denied. I never heard it denied until the last two years.

F. L. PATENOTTE, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McCLURG:

Q. How old are you?
A. I am 39 years old.
Q. Where do you live?
A. Pass Christian.
Q. How long have you lived there?
A. All of my life.
Q. What position have you ever held in Harrison county if any?
A. I have held all sorts of positions. I have been holding offices of different denominations for the last 18 years.
Q. Commence at the first office that you have held and tell us what ones you have held since you have been in the county?
A. I was deputy marshal and constable and justice of the peace.
Q. When?
A. That has been 18 years ago.
Q. What others?
A. I have been marshal
Q. Marshal of what?
A. Marshal of Pass Christian and deputy sheriff of Harrison county?

Q. When were you deputy sheriff?
A. That has been eight years ago.
Q. Commencing with your first official career I will ask you please state what jurisdiction if any have been exercised over waters of the shore line, and how far south that jurisdiction been exercised by you, as marshal and *ex-officio* constable and d sheriff from the time you first held office up there to this time
A. I am at present the justice of the peace of beat 3, I have ways exercised jurisdiction as far as my office allowed. 18 mi six leagues out from the shore for the 18 years.
Q. In these several offices?
A. Yes sir.
Q. Have you ever met with any obstruction in the exercise your jurisdiction 18 miles out during this period from the St Louisiana?
A. No sir, none at all.
Q. I believe that your town of Pass Christian is in Harr county, is not it?
1668 A. Yes sir.
Q. Mississippi?
A. Yes sir.
Q. The bill of complaint in this case Mr. Patenotte alleges prior to its filing in October 1902, that the affairs from the tak of oysters in this territory now in dispute had grown to such a cr that there was a threat of armed conflict between the sheriff officers of St. Bernard parish Louisiana, and thos sheriff and cers of the county of Harrison, Mississippi. Do you know any th about any disturbance or threat or menaces of that kind. If you I would be glad of you would tell us what it was.
A. I never have heard of any sir.
Q. When were you deputy sheriff?
A. I was deputy sheriff until the 1st Monday in January 19 and then I was sworn in as justice of the peace.
Q. Up until that time?
A. Yes sir, I had been deputy sheriff then for eight years.
Q. You had been for eight years previous to January 1904?
A. Yes sir.
Q. During this time did you ever hear of any serious conflict controversy between the officers of St. Bernard parish Louisiana a Harrison county Mississippi?
A. No sir, none whatever.
Q. And as deputy sheriff, how far did the process of Mississip extend out from your shore south?
A. 18 miles. Six leagues. I have arrested parties, that has bee three years ago, but I judge a mile and a half or two miles south the Pass Marianne light house.

By Col. ZACHARIE: The counsel for Louisiana objects and except to any testimony in regard to any judicial proceedings or suit

whether civil or criminal, unless the record is produced, or the foundation is first laid to show the loss, destruction, or mislaying of the record as a condition precedent to the admission of secondary evidence by this witness.

By Mr. McCLUNG:

Q. In what capacity did you make these arrests?
A. As deputy sheriff.
Q. Of Harrison county?
A. Yes sir.
Q. Who was the sheriff then?
A. Mr. Ramsey.
Q. I believe that Mr. Seal is your present sheriff?
A. Yes sir.
Q. I understood you to say that you had lived in this county all of your life?
A. Yes, sir, Harrison county has been my home all of my life. Of course I have gone away and returned home.
Q. It is claimed by Louisiana in this controversy that there is a channel that passes out of the Rigolets to the eastern, and south of the mouth of Pearl river, running eastwardly north of Half Moon island, and what I believe was formerly called Grand island and as far as Cat island, and to the north east of Isle à Pitre and into the gulf of Mexico, as the line between these two States. Do you know of your own personal knowledge or do you have any information by history, tradition or otherwise as to this line having ever been recognized by either State as the real dividing line between those two States, and if so I would be glad if you would tell us what it is?
A. Well in answer to that I will say that I have always been guided by the officers above me, and have always stated that we had 18 miles. Our jurisdiction in other words extended 18 miles and we reach some where south of Creole gap, and I therefore exercised during my term of office jurisdiction any where north
1569 of Creole gap. I never did go beyond Creole gap.
Q. Have you any connection with the Mississippi Oyster Commission?
A. Not at present sir. I have had.
Q. When?
A. I was one of the members first appointed. I was appointed for four years.
Q. When?
A. I don't remember. When the oyster commission was first appointed. That has been September going on I think will be two or three years. I don't remember exactly.
Q. During this time that you were a member of the Mississippi Oyster Commission, how far south of the shore line along the coast counties. Jackson, Harrison, and Hancock, did this commission undertake to exercise jurisdiction?

A. Well we undertook to exercise jurisdiction 18 miles south. In other words we had a joint meeting between the Louisiana Oyster Commission and the Mississippi Oyster Commission and we then settled on—until this question would be settled and guide ourselves under certain restrictions.

Q. If you can recollect what those restrictions were let's have it?

A. That the disputed territory would be known as—, I don't know whether I can recollect it now or not. It was due south to the marshes following the marshes and Grand pass, near the edge of Grand pass and Sun Down island, and from Sundown island to the deep water channel south of Cat island, and then following said channel—I cannot remember it. Any way the records will show it.

Q. That agreement that you are speaking of. Was that by virtue of any law or was it just an agreement between the two commissions?

A. Not at all. It was an agreement between the two commissions pending this suit. We were advised that if we did not desist fishing; if we insisted on taking oysters in that territory we would be prohibited. That an injunction would be sued out by Louisiana to prevent either side from fishing in this territory.

Q. You mean the territory as it is in that line that you have just described?

A. Yes sir.

Q. And the agreement left this territory west of this line open to be fished in by Louisiana. I mean to ask you if Mississippi under this agreement:—In other words whether the people and citizens of Mississippi under that agreement may go into the marshes west of Grand pass and on down to Brush island and Treasure bay and fish down there?

A. No sir, they were not allowed there.

Q. But the people from Louisiana and fishermen from that State might go there?

A. Yes sir.

Q. In other words under that agreement by these two commissions the fishermen and citizens of Mississippi are prohibited from fishing west of Grand pass?

A. Yes sir.

Q. And west of Sundown island?

A. Yes sir.

Q. And that is left open and free for the people of Louisiana?

A. Yes sir.

Q. But in the sound north of Turkey bayou and Three Mile bayou is left open to both States?

A. Yes sir, to both States.

Q. And all out north of Cat island is left open to both States?

A. Yes sir.

Q. And the whole of the Misssisippi sound if left open to both States under that limitation?

A. Yes sir.

Q. Am I to understand from what you say that you were a party to this agreement?

A. Yes sir.

Q. And that the Mississippi Commission entered into it to prevent the threat of the injunction by the State of Louisiana being
1670 carried out to prevent either State from fishing in there?

A. Yes sir.

Q. And so far as you are informed am I to understand that you know of no law; that the commission acted under no law in making that agreement?

A. Not a particle sir.

Q. No law on the subject?

A. No sir.

Q. And that was an arbitrary rule forced on Mississippi by the threat of Louisiana?

A. Yes sir. We had a further meeting I will say with the Louisiana commission to try and get them to allow Mississippi to fish in 18 miles of her shore.

Q. What was the result of this conference?

A. Louisiana emphatically refused to go into any further agreement.

Q. By whom was this threat of an injunction made?

A. By Mr. John Dymond, Jr.

Q. Is he the man that is marked in these pleadings as counsel for the State of Louisiana?

A. Yes sir.

Q. Where was this meeting?

A. At their office in New Orleans.

Q. In Mr. John Dymond's office?

A. Yes sir.

Q. And he was the attorney for the State of Louisiana; for the Louisiana commission?

A. Yes sir.

Q. And attorney as I understand it for the Lake Borgne Basin Levee Board?

A. I don't know any thing about that.

Q. And attorney for the St. Bernard Parish Oyster Commission was not he?

A. Yes sir, so I am informed. I don't know it personally.

Q. The two commissions had several meetings in the city of New Orleans did not they?

A. Yes sir.

Q. Mr. Dymond was present at each one of these meetings was he?

A. Yes sir.

Q. And appeared as attorney for the Louisiana commission?

A. Well he appeared as attorney for the Louisiana commission and I will state further that the Louisiana commission would not take any motion or pass any resolutions pertaining to this disputed

territory until they had further investigated or conferred with Mr. Dymond. In other words he was the whole cheese.

Q. You mean to say that he was then chief cook and bottle washer for the Louisiana commission?

A. Yes sir.

Q. How long have you known this marsh down there Mr. Patenotte?

A. Well I have always heard of it sir, but I presume that the first trip that I made there was twenty-five years ago. About twenty-five years ago.

Q. Since you have known it and heard of it what have you heard it called?

A. It goes by different names.

Q. What is the most general name?

A. Some people call it the Grand marsh, and some people call it the Louisiana marsh.

Q. How long have you known it to be called Louisiana marsh?

A. I don't know what portion of it they call the Grand marsh and what portion they call the Louisiana marsh.

Q. There is a marsh south of the Mississippi 18 mile limit is there not?

A. Yes sir, in Hancock county.

Q. I mean south of the Mississippi limit. South of Hancock county?

A. Yes sir.

Cross-examination.

By Col. ZACHARIE:

1671 Q. Mr. Patenotte, you say that this arrest was made about a mile and a half east or west of Pass Marianne?

A. It was made south east of the Pass Marianne light.

Q. What was that arrest for?

A. Violat*ain* the dredging law. Dredging oysters in less than 14 feet of water.

Q. You say that some people along this coast call these marshes to the south, this disputed territory between Mississippi and Louisiana, the Louisiana marshes. How long have you known them to call it that?

A. Well as I stated in my testimony for the last 25 years more or less, and I also stated that they called it the Grand marshes.

Q. Where did you derive your information from about the southern line of the State of Mississippi extending out six leagues or 18 miles from the Mississippi shore to the southward?

A. Well sir I have had a code and a form book since I first took the oath of office.

Q. When was this?

A. Some 18 years ago.

Q. Did you ever hear the question discussed or mentioned prior to that time?

A. No sir.

Q. Then it is only from this code and form book that you derived your information?

A. And the writs that I received from different justices of the peace to exercise jurisdiction within 18 miles.

Q. You have never read the act admitting Louisiana into the Union have you?

A. No sir.

Q. Then you don't know that under that act the islands within three leagues or nine miles of the Louisiana coast are embraced in the State of Louisiana?

A. I never heard it in my life until the two commissions met jointly in New Orleans.

Q. Do you know or do you not know that this territory in dispute, these marshes have always been considered as a part of the parish of St. Bernard in Louisiana?

A. No sir.

FRED. ELEUTERIUS, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLURG:

Q. Where do you live?
A. In Biloxi.
Q. How old are you?
A. 28 years old.
Q. How long have you lived here?
A. I have lived here all of my life.
Q. Have you ever held any office in Harrison county?
A. No sir.
Q. What is your present business?
A. Oystering.
Q. How long have you been oystering?
A. About 15 years, I have been running a boat.
Q. In what capacity?
A. Well I have been running boats.
Q. Captain?
A. Yes sir, I have been running boats since I was 18 years old. ave been a captain for 15 years.
Q. During this time where have you been taking oysters?
A. I have been taking oysters out of the Louisiana marsh. Out Grand marsh as they call it. Great marsh, and out of the Mis- ippi sound. I have been taking oysters as far south as the American bay. Right close to the Mississippi river.

Q. Where is the southern boundary line of the State of Mississippi?

A. I don't know sir. I have always heard though that it run 18 miles south of the Pearl river, but which way it went after it got that far I don't know. I never heard.

Q. Did you ever pay a license to fish oysters?

A. Yes sir.

Q. Where?

A. From Mississippi.

Q. When?

A. I don't know what year it was. I got a license from Mr. Lazana. It was in 1893.

Q. Under that license where did you take oysters?

A. Well we got oysters everywhere in the marsh I got oysters in Morgan harbor.

Q. Did you get oysters under this license as far south as Treasure bay and Brush island?

A. Yes sir.

Q. Let us know whether under this license you went in Nine Mile bayou?

A. No sir, I never went in there.

Q. In Three Mile bayou?

A. Yes sir, I have bought oysters inside of Bayou Boudreaux. That is inside there Grassy island.

Q. Karako bay?

A. Yes sir.

Q. Sundown island?

A. Yes sir.

Q. Brush island?

A. Yes sir.

Q. Door point?

A. Yes sir.

Q. Off as far south west as Indian Mound bay?

A. Yes sir, I have been in there.

Q. Under that license?

A. Yes sir.

Q. Well during the time you have been going in there Captain have you ever noticed any subsidence or sinking of the marshes, or any material changes in the conformation of them. If so I wish you would please state about it?

A. Well no sir. Maybe the mouth of Little point may be opened a little bit, but if there were any changes down there I think I would notice it.

Q. Is there any violent changes in these bayous and islands?

A. No sir, none that I know of. I think that Sun Down island was cut in two. That is about the only change that I know of.

Q. In what State is Sundown island?

A. Well it is just the same as the balance of the marsh. Just the same.

Q. Within 18 miles of the Mississippi shore?

A. Yes sir, it is inside of the 18 miles. I guess it is.

Q. Where were you born?
A. Biloxi.
Q. Your parents lived in Biloxi?
A. Yes sir.
Q. Are they living yet?
A. No sir, they are dead.
Q. How old was your father when he died?
A. My father when he died was about 62.
Q. How long had he lived here?
A. He had lived here four or five years when he died.
Q. Was he a native Mississippian?
A. No sir. He lived in Pass Christian awhile.
Q. When he died?
A. No sir, he died in Biloxi. He was living here only four years hen he died.
Q. Was he born in Mississippi?
A. No sir.
Q. How long had he lived at Pass Christian?
A. About ten years.
573 Q. Are you able to say what the general understanding of the people along this coast, especially of Harrison county has en as to where the southern boundary line of the State of Mississpi has been recognized to be?
A. No sir, only 18 miles south of the mouth of Pearl river, and er it got there I don't know which way it went. I never had ybody to tell me.
Q. What about the shore line to the eastward of Pearl river to oxi. How far south of Biloxi is the southern boundary of the te of Mississippi?
A. I suppose that it is 18 miles. That is what I have been told. ave been told that.
Q. Can you say whether it has been the understanding generr with the public during your time that that is the line?
A. Yes sir, that has been the general run of it. That is what I e always heard.
Q. Well you were in the marshes and these places that you have ken of. What were you doing there Captain?
A. Catching oysters.
Q. Were you ever interfered with by the authorities of the State Louisiana?
A. No sir, not while I was in the marsh.
Q. You spoke of the Louisiana marsh?
A. Yes sir.
Q. And the Grand marsh?
A. Yes sir, I thought that it was far down as the river. We ld go down there in the summer time close to the river and diamond backed terrapins.
Q. Where were you then?
A. In the Louisiana marshes.

Q. Where were you in the Mississippi marshes?
A. To the north of American bay.
Q. What marsh was that. Louisiana or Mississippi?
A. We thought that it was Mississippi.
Q. Do you know of any civil or criminal action that happened out in the marsh taken cognizance of by the officers of Mississippi?
A. Yes sir, I know of one.
Q. What was it?
A. At the time that Mr. Lazana was sheriff of——

By Col. ZACHARIE: The same objection as stated before to the testimony above introduced is here renewed by the counsel for Louisiana to this class of testimony.

A. He arrested my brother in Creole for not culling oysters.
Q. What year was this?
A. I don't know sir.
Q. How long ago?
A. About 12 years I guess it was. It was in 1893.
Q. Were you present at the time?
A. No sir, I was not there. I just know of this.

By Col. ZACHARIE: The same objection is noted by the counsel for Louisiana in regard to the secondary proof as stated above.

Q. How did you get information of it?
A. I got it from my brother here in Biloxi.
Q. You were not present?
A. No sir.
Q. Have you any personal knowledge as to the fact of any arrests in or about the marsh other than the one that you have mentioned?
A. No sir, only this Johnnie Bowen.
Q. Were you present?
A. No sir.
Q. You know that only from hearsay?
A. That is only from hearsay.

Cross-examination.

1674 By Col. ZACHARIE:

Q. Do you know that portion of the territory in dispute in this case between Malheureux point and Isle à Pitre?
A. Yes sir. I know it pretty well.
Q. You have stated in your examination in chief that at that time it was sometimes known as the Louisiana marshes and sometimes as Grand marshes?
A. Well I have heard that yes sir. We considered it Mississippi when we got this side of American bay.
Q. I am now asking you about the general way in which it was called?

A. Yes sir.

Q. You say that it was called Louisiana marsh?

A. Yes sir.

Q. And Grand marsh?

A. Yes sir, and Grand marsh.

Q. Which was the more general appellation?

A. The general run there would not call it neither one. They would call it the marshes.

Q. How long have you been knowing it to be called the Louisiana marshes? Ever since you have been fishing in there?

A. Yes sir, ever since I first started. The Louisiana marsh and the Grand marsh. Most of them called it the marsh.

Q. You have been examined in regard to the subsidence of this land and any changes?

A. Yes sir.

Q. Did you ever pay any particular attention in regard to any changes in this territory, or was it merely a casual notice as you passed along? You did not notice particularly did you?

A. I will tell you how we did and paid particular attention to it. We dug into the lagoons. They were in there and entirely surrounded by land. They had fine oysters in these lagoons, and we would dig our way in there and let the current go in there and we would say that the next time we come back it would not be any trouble. But in the lagoons it would take a long time, maybe a year to dig out so there would not be any trouble in going in and out of these places.

Q. You stated in your examination in chief that you had never been interfered with by the officers of Louisiana in the marshes?

A. Yes sir.

Q. Have you ever been interfered with outside of the marshes?

A. Yes sir, I have been interfered with by the Mississippi authorities.

Q. Have you ever been interfered with by the Louisiana authorities?

A. No sir, I never have.

Q. Where did you derive your information about the southern boundary of Mississippi being 18 miles south of the mainland?

A. It was hearsay. Asking older men than myself about it. The boatmen.

Q. How did you come to ask these questions. What occasion gave rise to it?

A. This oyster law when they first started it in 1893. That was when it was first started.

Q. You never heard any discussion about the matter prior to 1893?

A. No sir, not until here of late.

Q. Did you refer to the 18 mile limit of which you have spoken as extending as far south as American bay?

A. No sir, I don't think. I always thought and have heard that

it run east after it got the 18 miles south. Now I don't know what part of the marsh that would bring you in.

Q. You did not go down to American bay to fish oysters?

A. Yes sir.

Q. I thought you went there for terrapins?

A. No sir, we went there one season for oysters.

1675 F. P. LAZANA, recalled on behalf of the State of Mississippi, testified as follows:—

By Gen. MCCLURG:

Q. You testified in this case once before I believe?

A. Yes sir.

Q. Mr. Eleterius, who has just been on the stand, testified that you arrested his brother once some where about Creole gap or Grand pass or some where in there. Is that true?

A. Yes sir, I arrested his brother, but I could not say whether it was in Creole gap or Grand pass. I am not certain. It has been so long ago.

Q. Did you have a warrant for his arrest?

A. No sir, I arrested him while he was in the act of committing the offense.

Q. The laws of the State authorized you to do that without a warrant?

A. Yes sir.

Q. What act was he committing in violation of the Mississippi law?

A. He was carrying away unculled oysters from the State of Mississippi.

Q. What position did you hold then?

A. I was then oyster inspector for Harrison county.

Q. Was that north or south of this deep water sailing line?

A. That is south of Pass Christian about 16 miles from Pass Christian. About 16 miles. Up to the place they call Door point is considered 18 miles or six leagues.

Q. What was it that Mr. Eleterius——

By Col. ZACHARIE: The counsel for the State of Louisiana here make the same objection to the introduction of secondary evidence as is noted above.

A. He was fined ten dollars and the costs.

Q. Before what officer?

A. I am not certain but I think that it was before Judge Espy. Judge James H. Espy.

Q. Will you do us the kindness to see if you can find us the original record of this case?

A. I have tried to find those records but in some way or other they have gotten misplaced and they can not be found.

Q. I have had Judge Espy summoned. You can not say whether he will be here?

A. Yes sir, he was to be here on the second train from New Orleans. He was on the first train and stopped at Gulfport. I spoke to him and he said he would be here.

The commission here adjourned for the noon recess until two o'clock p. m.

The commission met at 2 o'clock p. m. with the same presences as this morning, and the following testimony was taken, towit:—

Judge J. H. NEVILLE, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McCLURE:

Q. Judge, this is a controversy, you know, wherein The State of Louisiana is complainant, and The State of Mississippi is defendant and cross complainant, and we are taking now the testimony on the part of Mississippi, defending the case of Louisiana and in making her case on cross complaint. I will be very much obliged if you will state to the commission your present place of residence?

A. I live at Gulfport, Harrison county, Mississippi.

Q. And your present position please?

A. I am one of the general counsel of the Gulf & Ship Island Railroad Co.

Q. You have held other positions in the State of Mississippi Judge. I will thank you to state to the commission what positions you have held under the laws of your State?

A. I was district attorney of the seventh and second judicial districts of Mississippi for 12 or 13 years. I can not remember just the exact time, but 12 or 13 years. I resigned that office I think it was in 1896, and was judge of the second judicial district of the State of Mississippi for a period of some thing less than two years, when I resigned that place in September last, and I believe those are the only public offices that I have held in the State, excepting that I was alderman once of my town.

Q. Of what town?

A. Scooba. That is the most honorable position I ever held.

Q. Scooba is in Kemper county I believe Judge?

A. Yes sir.

Q. And where you lived before you moved to Gulfport?

A. Yes sir, I lived at Scooba when I was elected district attorney and for some years thereafter. I then moved to Meridian because it was convenience to my district and then afterwards to the sea coast.

Q. I wish you would please tell us whether Hancock county was in your district while you were acting as district attorney?

A. I will be glad to explain to you so that it will better explain my answer, that I was district attorney of the second and the seventh judicial districts. When I was first elected district attorney I was elected for the seventh judicial district, and it was called the seventh judicial district of Mississippi, composed at that time of the counties of Kemper, Lauderdale, Clarke, Wynn, Green, Perry, Marion, Hancock, Harrison and Jackson. After perhaps two terms in that district of four years, and perhaps during the last of the second term, I don't remember the time, the legislature re-districted the judicial districts of the State, and then created out of the seventh, and I think possibly the first district what was called the second judicial district composed of the counties of Noxubee, Kemper, Lauderdale, Clarke, Wynn, Green, Hancock, Harrison, Jackson, Marion, and the new county of Pearl river, which had been created by the legislature, omitting the county of Perry that was in the old seventh district. So it is that Hancock county has been in the second and seventh judicial districts in which I was district attorney at all times.

Q. And you resigned the office when?

A. I think that I resigned in April 1896 to take effect on the first day of July 1896 is my recollection.

Q. That is the judgeship, is it?

A. No sir, that is the district attorney. I was first elected in 1883 I think and went into office in 1884, and held the office until 1896 is my recollection.

Q. Judge, I will be glad if you will tell us when you were appointed circuit judge?

A. I think that it was the first day of May 1902. I was appointed in May 1902.

Q. Now Judge, I desire to ask you this question. From the time that you resigned the office of district attorney in 1896 to the time you were appointed circuit judge in May 1902 where were you located?

A. In Biloxi Mississippi in the practice of law.

Q. Were you then in the private practice of your profession?

A. I was, from 1896 until I was appointed judge in 1902, I was engaged in the practice of my profession at Biloxi.

Q. And you resigned the office of circuit judge in 1903 to return to your private practice at Biloxi?

A. Yes sir, at Gulfport. I resigned the office of circuit
1677 judge in September 1903, and was appointed one of the general counsel of the Gulf and Ship Island Railroad Co., and I took up my abode then at Gulfport, the headquarters of this railroad.

By Col. ZACHARIE:

Q. Then you have been practicing law privately since 1903?

A. Yes sir, and also from 1896 up to 1902 when I was appointed circuit judge.

By Gen. McCLURG: It has been testified in this case Judge by Lieutenant Governor Estopinal of Louisiana, and his son Albert Estopinal, Jr., who is one of the counsel for Louisiana in this case, and also by Mr. Nunez, the sheriff of St. Bernard parish, Louisiana, and perhaps by some other witnesses, and I ask you to look at the original record in this case, that is of the testimony taken on the part of Louisiana, pages 47, 48, 49, 50, 71, 72, 73, 74, 75, 76, 77, 78, and 80, 81, 88, 89, 90 and 95, 96, and 97 especially, and if you have the time to examine the record there is some other testimony with reference to the same subject matter. The pages to which I have especially referred you from 47 to 50 inclusive have reference to the testimony of Mr. Nunez, the sheriff of St. Bernard, and from 71 to 81, inclusive, has reference to the testimony of Mr. Albert Estopinal, Jr., who was for several years the district attorney in the district that included the parish of St. Bernard until a few days ago he was appointed judge, and pages 88 to 97 inclusive have reference to the testimony of Lieutenant Governor Estopinal, and there is I believe some other of that testimony in the case, all to the effect that while you were district attorney in the district of Mississippi in which Hancock county was included had certain conferences mentioned in the testimony to which I have referred you, and as an officer of the State of Mississippi it is claimed by the witnesses whose names I have mentioned that you undertook to settle a controversy over the boundary line between the States of Louisiana and the State of Mississippi, and that during this time, and especially up to the filing of the bill in October 1902 there was danger of an armed conflict between the sheriffs and officers of the parish of St. Bernard, and of the sheriffs and officers of the county of Harrison in the State of Mississippi. That one or more conferences were had with you as a law officer of the State of Mississippi at the slaughter house, and possibly some other points that I do not now recollect; perhaps in the city of New Orleans, with you by the above named witnesses looking to settlement of this controversy there was some agreement or understanding as to the taking of fish and oysters and as to the line between the States. I will thank you to please state to the commission what you may know with reference to this conference and whom it represented in such conference, and then tell us what you may know with reference to any armed or threatened conflict between the sheriffs and officers of the parish of St. Bernard in Louisiana and the county of Harrison, Mississippi, or any other parishes and counties in these two States. We will ask you Judge to in your own way cover the whole ground indicated by this question.

A. Answering your question I will say that I have examined the testimony referred to and indicated in your question at my leisure and carefully one day last week. I have a very distinct recollection of the occurrences detailed by Judge Estopinal, and Lieutenant Governor Estopinal and Mr. Nunez, the sheriff. I had only one interview or conference with them in my life about this matter, possibly two with Mr. Albert Estopinal, the district attorney, and

only one with these parties in the city of New Orleans. I was engaged in the practice of my profession and while so en-
1678 gaged represented some of the oyster packers and shippers in Biloxi. I was employed by these parties to go to the city of New Orleans, as I supposed when I left here to represent some of their oystermen who had been arrested by the authorities of the State of Louisiana for violating the law with reference to taking oysters in the State of Louisiana. My information was that the prosecutions had been begun in the parish of St. Bernard, and some of the oyster people who brought the information to Biloxi also informed me, and I had that information for the first time, that Mr. Nunez was the sheriff of St. Bernard parish. I left Biloxi accompanied by Mr. Lopez, and together we went to the city of New Orleans, and the next day went down to the slaughter house, where through the good offices of some people whom I knew there we had an interview with Mr. Nunez, the sheriff, and I then learned that none of the Mississippi fishermen had been arrested. It seemed that the understanding was that a fleet of some sort had been sent out to admonish them and to warn them that they must not fish in certain territory on which they were fishing, and they became alarmed at that. I found at any rate that none of the fishermen had been arrested. I talked with Mr. Nunez about the matter and he suggested that I should have an interview with Mr. Albert Estopinal the district attorney. We took the street cars as I remember it now, I may be mistaken about that however, to Mr. Estopinal's office in the city, and if not to his office, to some place where he would be found.

Q. Can you now state as to whether that was the office of Mr. John Dymond Jr.?

A. I can not.

By Col. ZACHARIE:

Q. Do you remember what street it was on?

A. I do not. I think that it was the office of Mr. Estopinal. I think that he was practicing law with some party there.

Q. Was it near Lafayette square?

A. I could not remember as to the number. I think that it was on Natchez alley. We went up there to his office and had some conference about the matter. Altogether as to the policy that was to be pursued by the State of Louisiana. I gathered from him that the board of police, I don't know what they call it over there.

Q. The police jury?

A. The police jury. I judge that it is a board similar to our board of supervisors here, had made some order in reference to this matter and it became his duty as district attorney to see to the enforcement of that ordinance by the board. We discussed the question. I insisted that my clients, the Mississippians whom I represented, protested against an order driving them, or requiring them to leave the grounds where they were fishing and that we insisted

Mississippi that it was Mississippi's territory. That our people been fishing there all along, and that we would assert in the rts our right to continue to fish there. Some thing was said at how it would be done and what would be the result. If they ld arrest Mississippians for fishing on that ground, and I replied "Well, we did not want to engage in any thing of that sort, re had been no such thing before, that Mississippi would insist n punishing the people of Louisiana in the courts for depreda- upon her property. And I think some thing was said about not having laws similar to Louisiana prohibiting the fishing in territory and I suggested that could be easily remedied by hav- the boards of supervisors that had jurisdiction of these matters, by an act of the legislature. In other words as I now remember was purely a question between us all as to the line between the te of Mississippi and the State of Louisiana, where it was. I in- ed for my clients that we were on Mississippi soil and they as stoutly insisted that we were not. At that period of the discussion when it became manifest that we could not agree to any thing. It looked that way, it was suggested that we have eeting with Mr. Estopinal, the elder Estopinal who as I remem- it now was president of the board, or had been *it* he was not at t time president, but I think he was the president and the father of district attorney, and together we would discuss this matter and ver it, and we did.

We had a meeting at the Grunewald hotel. Adjourned to meet re and did have a meeting at the Grunewald hotel, at which the er Estopinal was present, and I think possibly Mr. Dunbar, one the shippers who had a factory at Bay St. Louis had come into discussion.

By Mr. McCLURG:

Q. Can you say whether Mr. John Dymond was present at either of these conferences?

A. I don't think he was present at either one of these conferences. ink he was not because I have no recollection of ever having met John Dymond in my life. We continued this discussion at the erview at the Grunewald hotel I think. Possibly we reached no clusion that night. My recollection is that it went over until the t morning when we met again in the office of Mr. Estopinal, and some further conversation about it, and we both reached the clusion that it was a question of the boundary between the two tes. I insisted that our people were on Mississippi soil and they sted that they were not, and it was then suggested that we settle s matter by having a friendly suit between the two States to de- mine the controversy. We discussed that for some time and the stion was suggested as to who was to bring the suit, and there se trouble again. I had no authority to say any body should ng a suit because I was there representing private parties, but we lly agreed that possibly there would not be any trouble about

that. That the State authorities could do that. We discussed that for a little while and finally agreed that that was impractical, and that Mr. Estopinal and his father as I remember it, should see the Senators from the State of Louisiana and I should on my part would interest our people here and we would see the Senators from the State of Mississippi, and see if we could not—if Congress could not in some way establish a line about which there could be no mistake between Mississippi and Louisiana, and that pending this the whole controversy was dropped right there. I was not authorized to drop it for any body, except I was there as the attorney for these fishermen, and that no steps were to be taken against them. I came home fully intending to see the Senators but in the mean time I suppose that Mr. Estopinal had reached the same conclusion that I had about it, after more mature deliberation, that it was not a political question and a political body was not the proper body to deal with it. Some time afterwards Mr. Estopinal called to see me in my office in Biloxi, and we then had a very pleasant interview about the matter and reached the conclusion, both of us, that the thing was impractical to be reached by Congress, and that the whole matter would have to be determined by a suit in the United States Supreme Court, and that ended the latter interview. I never heard of it any more and had no further conversations about it with any body from the State of Louisiana I think from that day to this that I have any recollection about. That is my recollection of the whole transaction and that is very fresh in my mind. The gentlemen are evidently *are* mistaken as to my pretending to represent the State of Mississippi as district attorney. I am sure they are mistaken about that, because I had resigned my office as district attorney in 1896 as before stated and was succeeded by Mr. W. A. White of Biloxi. We formed a co-partnership. Mr. White was at that time the attorney of
1680 Mr. Lopez, and the other factories here except perhaps the Barrataria, and I of course as his partner and engaged in the practice of law was there representing these clients of ours in the matter.

Q. Then we are to understand that in this controversy you did not undertake to represent the State of Mississippi or any political subdivision of it officially?

A. I did not. I had no authority or power to do so.

Q. The second part of my question Judge I think you have not given your attention. That was with reference to any threat of actual conflict between the sheriff and officers of St. Bernard parish and the sheriff and officers of Harrison county, Mississippi. Had you any information of any threatened conflict between the officers of that parish and this county?

A. None in the world, or of any other county in Mississippi. I might have laughed and possibly did remark when Mr. Estopinal said they would arrest the Mississippians for trespassing on this land. I possibly said "We can arrest as many of you as you can of us," and possibly in the conversation this thing occurred "Well sup-

osing we would attempt it." I then said there of course would be conflict between the States, or officers of that State and the State Mississippi in resisting process. That is about all. Nothing more an that was said though.

Q. As a matter of fact do you know of any actual or threatened nflict between the officers of these two States?

A. None in the world. Absolutely none.

Q. Can you say whether or not there was any probability of any med conflict between the officers of these two States?

A. Absolutely none that I know about.

Q. You can not be mistaken about the fact that you were repre-nting private parties and had no official office or position at that ne?

A. Not at all. I know that I was there representing Lopez, Dun-r & Co., and had no official position at all, but was occupying the onorable position of a private citizen.

Q. You had resigned your office of district attorney?

A. Yes sir.

Q. And had not committed the crime of being a circuit judge?

A. No sir, nor holding any other office up to that time. I had rned all of that part of it over to my partner White. That is the ice holding.

Q. It is alleged in this bill of complaint Judge Neville that the ne line dividing the State of Louisiana from the State of Mississippi, the sailing channel recently marked by the Federal Government om the mouth of Pearl river and Lake Borgne, out just north of assy island and Grand island which we are told has lately been lled Half Moon island, and it passes around to the south west of t island, and north east of Isle à Pitre. If you have any actual owledge or information, whether that information be legal, his-rical, or traditional, as to that line being the true boundary be-een these two States, I would be glad to have you tell this com-ssion and the court what you may know and what your informa-n is on the subject?

A. General McClurg, I have no information about it, historical, ditional, or otherwise. In this investigation that I made in Lou-ana, when I went to Louisiana I accepted the tradition of the hermen with whom I talked that the territory from which they d been—I will not use the word prevented—but admonished to p off of it, had always been regarded as Mississippi territory, d I accepted their statements and representations as true about t. I know nothing of my own knowledge whether that is the e as indicated by them or not. I could not say

Q. How far from the Mississippi shore did these fishermen and se directly interested in the disputed territory say it extended. w far south?

A. The dispute there on that occasion?

Q. Yes sir, generally. Your general information I am asking you about including that occasion. I want to ask you what your knowledge and information has been as to the southern limits of the State of Mississippi south of these three counties?

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A. The only knowledge that I have about it is what I would read. The constitution as to the line marked out there.

Q. What did you gather from the constitution?

A. You will have to give it to me and let me read it again.

Q. Here it is. I will be glad to furnish it to you. I will hand you Judge the bill of complaint in this case which undertakes to set forth Mississippi's boundary as well as that of the State of Louisiana, and ask you whether that coincides with the general information you have from the fishermen to whom you have spoken and others, given to you as a private citizen, or while you were district attorney and circuit judge?

A. This has always been my understanding of the southern boundary of Mississippi. The particular locality has always of course been a question of fact, as to where it was.

Q. What has been your understanding?

A. Beginning at the River Mississippi at a point where the southern boundary line of the State of Tennessee strikes the same, and thence east along the said boundary line of the State of Tennessee to the Tennessee river, and thence up the same to the mouth of Bear creek, and thence to the county of Washington, Alabama, thence to a point ten miles east of the Pascagoula river on the gulf of Mexico; thence westwardly including all islands within six leagues of the shore to the most eastern junction of Pearl river with Lake Borgne; thence up said Pearl river to the 31st degree of north latitude; thence west along said degree of latitude to the middle or thread of the stream of the Mississippi river; thence up the middle of the Mississippi river, or thread of the stream to the place of beginning including all islands lying east of the thread of the stream of said river, and also including all lands which were at any time heretofore a part of this State.

Q. Well as a private citizen, and district attorney, and as a circuit judge, and from your general information state whether or not you considered this State included 18 miles from the shore with its meanderings at all points from the Alabama line to the mouth of Pearl river?

A. That has always been my construction of it.

Q. I believe Judge that you have not been a member of any of these superfluous and illegal commissions that have undertaken to cut off the rights of the sovereign people of these two States in settling these lines, or in forming neutral territory?

A. No sir, I have not belonged to them.

Q. And of which especially the oyster commissions of Louisiana and Mississippi have undertaken to keep Mississippians from fishing

the Grand marsh, and as I once heard you say in a State convention, being turned out of the house of their fathers?

A. No sir, I have not belonged to them.

Q. You have not been a party to that crime?

A. No sir.

Cross-examination.

By Col. ZACHARIE:

Q. Judge Neville, can you remember how this interview with these gentlemen whom you have mentioned came about? Is it not a fact that you addressed them a letter asking to meet them?

A. I might have addressed a note to Mr. Nunez, asking him to meet me at the slaughter house Colonel, though that is not my recollection of it. I would not say I did not, but my impression is to give you my recollection about it, I had a brother in law who was engaged in the stock business, Mr. S. D. Jackson, at the stock landing. I think it was through his kind offices that Mr. 682 Lopez and myself met Mr. Nunez. I think we went down and he introduced us. My recollection is distinct about it, he introduced us to the deputy sheriff, some officer at the stock anding, and I might possibly have written him a note and gotten him to bear it to Mr. Nunez, I am not certain whether I did that or ast asked Mr. Nunez to come to see me.

Q. Will you give me about the time as near as you can when his interview took place?

A. That has been a long time. It was in the fall.

Q. When was it you resumed the practice of law?

A. In 1896 I think, the first day of June. I resigned to take effect on the 1st day of June 1896.

Q. You then think it was the fall of the same year?

A. Well I cannot be certain as to whether it was the fall of 1896 of the fall of 1897 or 1898. I am not positive about the year. I am pretty certain though that it was in the fall. Early in the fall when I had this interview with them.

Q. Are you not mistaken about saying that this interview took place at Albert Estopinal's office?

A. No sir.

Q. Did you not go together to the Cosmopolitan restaurant and there take lunch together and talk this over?

A. No sir. That is a mistake. The first interview was with Mr. Nunez at the stock landing, and he asked that we go to see Mr. Albert Estopinal at his office. We went to his office and my recollection is—I am sure they are mistaken about the place. We went to the café of the Grunewald hotel and there met his father, when the interview occurred between Mr. Albert Estopinal and the elder Estopinal and myself.

Q. It was not at Royal street at the Cosmopolitan?

A. No sir.

Q. They state that?

A. No sir, I remember distinctly that I was not in the Cosmopolitan restaurant for two or three years after that. I always up to that time had stopped there at Farbacher's, or at the Grunewald hotel.

Q. Now in the note that you addressed to Mr. Nunez—you say that you were in partnership with Mr. White, the district attorney?

A. Yes sir, Mr. White and myself were partners.

Q. Might not that note have been addressed on the letter head of the district attorney's office?

A. No sir, it was not, for the reason for that I remember distinctly, that that information came to me—I remember it as well as if it was yesterday, Mr. Lopez telephoned me to come to his factory. He was down at his factory. I got in a buggy and drove down to his factory and he informed me of what the boatmen had just come in and told him about it, and it required prompt and immediate action. We got off as soon as we could and went to New Orleans that evening. I think it was possibly one or two o'clock he called me down, and my impression is that we took the first train that leaves here at three o'clock in the evening and went to the city. I remember distinctly that we went to Farbacher's restaurant and took rooms and spent the night, and went down the next morning, and if I wrote to Mr. Nunez, and I have no recollection of writing to him, but if I did I wrote him on paper that I got from Mr. Derryberry who was a friend of mine in the stock business, at the stock landing, or my brother in law, Mr. Jackson.

Q. Did not Mr. Nunez, or Mr. Albert Estopinal Jr., or both parties inform you that the sheriff was then fitting out an expedition of armed men to go down there and arrest these Mississippians in that territory?

A. My understanding from them as I now remember it was, such was my understanding—that they had informed these Mississippians that they must not fish in that territory, and I got it, but I don't know that I got it from them, my judgment is that they denied that—I got it from the fishermen I think—that they thought there was an armed boat, and they made it a terrible weapon of destruction, was coming out there to kill them and run them off one
1683 way or the other. But I think Mr. Estopinal and Mr. Nunez denied any such purpose. They were simply going there to arrest them and try them in the courts.

Q. Did they not inform you. Mr. Nunez or Mr. Estopinal Jr. or perhaps both, that in order to carry out the order or ordinance of the police jury of the parish of St. Bernard that the sheriff was then organizing an armed expedition to go down and arrest all Mississippians found fishing in that territory?

A. I did not understand it was to be any armed expedition any more than what the sheriff or officer would have in going out to make an arrest under a criminal warrant. My understanding was that they were going down purely as officers of the law to execute

t they regarded as warrants that were to be placed in their
ds.
. Then I understand that you took the position that if that was
ied out that Mississippi would retort by arresting Louisiana
ermen?
. Who were found on what she was claiming as her territory.
. That would have brought about, would it not, a clash between
authorities of the two States?
. Not necessarily Colonel.
. Why suppose Mississippi authorities attempted to arrest
isiana officers, or that the officers of Louisiana would go and
t the arrest of these Louisiana fishermen who were fishing there.
uld not that have brought it about?
. I could not hardly contemplate a thing of that sort, and as I
rehended the thing would work this way, was my idea about it.
issippi was insisting that that was her territory and would
st Louisiana people and they would be carried in Mississippi
ts and tried, and tried according to the fact as we determined it,
as Mississippians fished in the same territory would possibly be
sted by Louisiana, which brought about the remark that I re-
ber distinctly making to these gentlemen, that we could arrest
any of them as they could of us.

By Mr. McCLURG:

I will ask you so that Louisiana's counsel may cross examine
on it. In that conference of which you now speak, or in one of
onferences you had with the district attorney, and the lieutenant
rnor, and the sheriff of St. Bernard parish, was it not under-
l that they would test these laws by having some of our fellows
sted and you would represent them. Was there not some sort
greement made by which this question should be decided by the
courts, and when you left there you never heard any thing
about it?
That was discussed, but my judgment is that we abandoned
as I told you on the idea that we were to see the Senators from
arious States and see if Congress could do it. And that hung
or some time, and Mr. Estopinal came to see me in my office at
i, after Mr. White and myself had dissolved partnership, Mr.
inal came to see me with reference to it and we agreed that
was impractical and a suit in the United States Supreme Court
l be the only remedy. But I will say this, that was my pur-
in Louisiana, was to represent Mississippians who had been
ted at that time, and I only found out on reaching Louisiana
it had been a general warning to them that they must get off
at territory and that nobody had been arrested.

By Col. ZACHARIE:

Was there not a great deal of apprehension expressed on one
nd the other that if the officers of either State would attempt

to arrest the fishermen of the other State that there would result resistance to the officers?

A. I don't think any of us thought seriously about that. That might have been discussed and I think possibly was dis-
1684 cussed Colonel, but my judgment is that we both reached the conclusion that the officers sent out to execute the process from Mississippi, and the officers sent out to execute the process from Louisiana would not engage in any conflict about it amongst themselves. There would be no resistance of legal process on the part of either side, and that is what brought about the determination on our part that the trial would amount to nothing. I think maybe Mr. Estopinal remarked and both of us agreed that the people arrested in the State of Mississippi would perhaps be convicted and the people in Louisiana would be convicted and nothing would be determined.

Q. Were you aware, or did they make you aware of the fact that some of the Mississippi fishermen had been previously warned off and admonished not to fish there and they had retorted they would not obey any such orders?

A. No sir, I don't think——

Q. The record does show that such had been done. Whether that had been discussed between you I don't know?

A. If that was discussed it was just discussed generally.

Q. According to your statement as I understand it there was a good deal of excitement among the Mississippi fishermen, as well as by their employers, the canneries here, and you were employed to go there to see what could be done in the premises?

A. I don't know Colonel as excitement would perhaps be the proper word. I had a very little talk with the fishermen. The most of my conversation was with Mr. Lopez and Mr. Ducate and Mr. Dunbar, and they had the boatmen employed who talked with them as they came in, and it was rather more of astonishment at the position taken by Louisiana than excitement. I don't know that there was any excitement about it. They telephoned me immediately as soon as these boatmen came in to report and we immediately went to New Orleans to see about it, and our information was that some of these men had been arrested.

Q. Now Judge you were interrogated more in the nature of an opinion by Gen. McClurg in regard to this clause in the constitution of the State of Mississippi. You have never examined the question as a lawyer have you?

A. I have examined it some but not as critically—I have examined it but not possibly as critically as a lawyer would and ought to give a matter of this sort, though I had examined it with a considerable degree of care at that time.

Q. Did you ever examine the act of Congress admitting the State of Louisiana to the Union?

A. Yes sir, I think I had at that time, I won't say very critically.

think I had examined the act at the same time, and they had veral maps at that ti... over there.

Q. Did you note particularly that portion of the act admitting e State of Louisiana which gives its southeastern boundary as fol-ws: after saying it shall go down to the mouth of East Pearl river says "Thence to the gulf of Mexico, and thence by the said Gulf the Sabine river," that is about the equivalent of it. Embracing l islands within three leagues. Nine miles?

A. Yes sir.

Q. Now is it not apparent to you that there is a clash in these o descriptions?

A. Well I declare I would rather not express an opinion about at unless I had investigated it more fully. It would be abso-tely worthless.

Q. Then Judge, in so far as the testimony of these gentlemen, ex-ieutenant Governor Estopinal, and Judge Albert Estopinal Jr., and r. Nunez is concerned. In so far as your recollection is concerned agrees pretty well with them, except on the following points as to me and place. That the interview was held, but as to the fact you ere holding any official capacity and representing Mississippi there in any way?

A. Yes sir, I think that is true. I started to say, but I thought possibly I had no right to put it in their mouths. I had en for more than twelve years the district attorney for these counties, d of course during that time was known to a good many people of uisiana, and they possibly confused that with the fact that I was that time district attorney. I do not pretend to say that they did t. Possibly there was an assumption of this sort on their part. ur interviews each and every one were of the most pleasant na-re, and I have very pleasant recollections of all of those gentlemen.

By Mr. McCLURG:

Q. By the permission of Judge Zacharie, I will interpose this estion so that he may cross-examine you Judge not only respect-g the matter about which I am about to ask. Suppose Judge, that a matter of fact you had been district attorney or even the circuit dge, under the laws of the State of Mississippi, or under her con-tution or even under the Constitution of the United States, pro-ding for the settlement of controversies between two States respect-g their boundary lines. Would you have had any authority under her the laws or constitution of the State or United States to have alt with them in respect to the settlement of that boundary?

A. Absolutely none, and I desire Gen. McClurg further more in at connection to state it in my examination in chief, that my derstanding of the law of the State of Mississippi was that if I had gaged at that time I was district attorney in the defense of any e while district attorney charged with crime I would have been ble to prosecution and conviction for a felony and removable

from office. Our laws prohibit the district attorney from engaging in the defense of any one charged with crime.

By Col. ZACHARIE:

Q. You say Judge that you have read the testimony of these gentlemen. Did they in any place or in any manner intimate that you acquiesced in the claim of Louisiana in regard to this boundary. Did they not say that you insisted that this was Mississippi territory as far as your knowledge goes?

A. I don't recollect the complete extent of their testimony. I read the testimony with reference to getting out the main facts, but I think they spoke to me two or three times possibly as the district attorney of Hancock county. I think that is the way they spoke of me. I read it the other day, but to say what all their testimony embraced, I would not undertake to say. It speaks there for itself.

Q. As I understand the testimony of these gentlemen they make no claim that you made any concession whatever on the part of the State of Mississippi, but you maintained that it was Mississippi's territory and the officers of Mississippi had a right to arrest over there?

A. Well that certainly was my opinion as I understood it.

By Mr. MCCLURG: By your permission Colonel, I will state that it occurred to me at the time Lieutenant Governor Estopinal, and the district attorney Albert Estopinal Jr. and Mr. Nunez were testifying that they laid especial stress upon the fact that Judge Neville was a law officer of the State of Mississippi and attempting, or undertaking to bind the State by his action.

By Judge NEVILLE: I think that Gen. McClurg made an objection there in the record that I had no right to bind the State of Mississippi and therefore any statements or declarations made by me were inadmissible is my recollection.

Redirect examination:

1686 By Gen. MCCLURG: By permisson of the counsel for Louisiana I would like to extend the original examination of Judge Neville.

Q. I will ask you Judge to please look at map No. 7 filed by Louisiana as testimony in this case, and I call your attention to some red lines and some blue lines. You will notice the measure double. One marked statute miles and the other nautical miles. You will notice first that there is nine statute miles, and nine nautical miles painted in blue that runs from about Point Clear southward through what we call the Grand marsh extending out to about Grand pas in its nautical mileage.

And I especially call your attention to the fact that these lines hit the main shore of Mississippi north east of Point Clear, and north of Grand island. I next call your attention to the line that branches

off from the main line which I have just mentioned from near Point Clear, marking as I have just stated the nine nautical mile line and the nine statute mile line, and then next I call your attention to the line that strikes the main shore of Mississippi east of St. Louis bay on the nine nautical mile line, and then under it the nine statute mile line. You will observe that these lines, especially the last one to which I have called your attention hits the Mississippi main land between Gulfport and Bay St. Louis, and in its reach strikes or nearly strikes the channel from Gulfport to Ship island. As I understand the claim of Louisiana from her bill and the testimony which she has already introduced in this case, that these outer lines reach the channel from Gulfport to Ship island are nine statute miles, and nine nautical miles from the north east point of Isle à Pitre, it being claimed by Louisiana under the testimony presented by this map that Isle à Pitre is the main land or coast of Louisiana, and that under the act of Congress admitting her into the Union she is entitled to three leagues of nine miles from her shore. In calling your attention to these lines I wish you to state what effect the establishment of this outer line, which reaches the channel from Gulfport to Ship island and strikes the Mississippi main land between Gulfport and Bay St. Louis, or of their inner line, being the first one to which I called your attention. What effect these lines or either of them would have upon the commerce of the State of Mississippi with reference to Ship island and Gulfport, or to any of that territory between Gulfport and the mouth of Pearl river as shown on this map?

By Col. ZACHARIE: To which question counsel for Louisiana excepts and objects as being irrelevant and as having no relevancy as to the actual situs of the boundary line between Louisiana and Mississippi as to what the consequence would be in regard to any port or any part of the coast of Mississippi.

By Gen. McCLURG: In answer to the objection of counsel, counsel for Mississippi states that there is contention on the part of Mississippi, set up in her answer and cross bill that in admitting the States of Louisiana Mississippi and Alabama, Congress had in view the southern or seaward frontage, when she gave six leagues including lands within them, and that this map being introduced by Louisiana would cut off all of Mississippi's sea front from the north end of Chandeleur islands to some where in the neighborhood of Gulfport, and would leave Louisiana jurisdiction between the north east point of Isle à Pitre, and if she should in the future from laws that made it a penitentiary offense to invade her territory, it would materially interfere with the navigation and general commercial interests of the State of Mississippi.

1687 Q. I will ask the witness to look at the map introduced by Louisiana marked as above indicated and to state according to his best knowlege and information and belief the effect that the establishment of either of these lines would have upon the

military or commercial or industrial interests of the State of Mississippi specifically and generally. The witness will please take the map and examine it and answer this question in his own way?

A. Well if the outside lines were established it would serve to cut us altogether west of Gulfport, and up the channel at places, or nearly up to it from Gulfport to Ship island. The effect if the second line should be established would be to cut us out of a large share of the frontage. Of course not quite so much as the first, and the third.

Q. Would not either of these lines absolutely cut Mississippi off the jurisdiction from the eastern mouth of Pearl river?

A. Undoubtedly.

Q. I next call your attention to the red line on map No. 7, which is supposed to be the 18 mile limit from the shore of Mississippi. The first one being statute miles and the second one being nautical miles, and they run as you see from the map with the meanderings of the Mississippi shore and hit at about the Alabama line, a finely dotted line on this map which I do not understand, and which may be a sailing line, under the act of Congress admitting Louisiana and Mississippi into the Union which of these lines would you say is the correct boundary of the State of Mississippi. The one marked in blue undertaking to mark the boundaries of the State of Louisiana or the one in red undertaking to mark the boundaries of the State of Mississippi?

A. General, I would prefer not to express any opinion about it because it would be merely an idea of my own and I don't know that I could back it up with any reason for it.

Q. I think you are quite correct Judge, but nevertheless I think it entirely proper under the pleadings in this case for you to state the effect that the establishment of the line claimed by Mississippi marked in red, as compared with that marked in blue claimed by Louisiana would have upon the material interests of the two States?

A. That I have already done as I understand it.

Q. You did say with reference to the blue lines?

A. Of course we would be in a much better condition then if the line should be adopted as the line marked in red and claimed by Mississippi. Our commercial and other affairs would not be so materially affected.

Q. I will ask you this further question Judge. Whether or not while you were presiding as circuit judge of the counties of the coast constituting a part of your judicial district there were any controversies civil or criminal—civil or criminal prosecutions where the venue was laid to the south of the shore line of Harrison or Hancock counties?

A. I have no recollection about that General. I could not say. There were some prosecutions at one time for violating the oyster laws of the State of Mississippi conducted before me while I was circuit judge of Harrison and Hancock counties. One of them The State vs. Conrad I believe I remember, and another perhaps The

State vs. Eaton and maybe another. I don't now remember, but I know that there was no controversy as to its having been done in the State of Mississippi. I could not say at what particular place the boat was lying out there at the time the alleged violation of the law occurred. I don't remember that.

Q. Could you say whether or not they were acquitted or convicted in your court?

By Col. ZACHARIE: Counsel for Louisiana objects to any testimony in regard to any judicial proceedings unless the judicial
1688 record is produced, or the foundation is laid by counsel for Mississippi by showing that such records as primary evidence have been destroyed, lost or mislaid.

A. My recollection now is General, that Mr. Conrad was convicted and fined to the limit of the law as I recollect it. His case was appealed to the supreme court of the State of Mississippi and by that court affirmed.

Mr. Eaton was tried in the circuit court of Hancock county, and convicted and his case appealed to the supreme court of the State of Mississippi, and his case was by the supreme court of the State of Mississippi reversed and remanded on the ground that we took a different view of the powers of the board of supervisors. They holding that the board of supervisors had no power to pass a law under which he was convicted. That is my recollection of the two cases.

Q. They were charged with violating ordinances passed by the board of supervisors of Harrison and Hancock counties?

A. Conrad was indicted for violating a law passed by the State of Mississippi as I remember it. For violating a law with reference to the taking of oysters. And Eaton was tried and convicted for violating an ordinance passed by the board of supervisors of Hancock county.

By Mr. MCCLURG: Counsel for Mississippi here states that these two cases to which Judge Neville here refers, reported in the official supreme court reports of the State, will be cited and made a part of the record in this case.

A. I know of no other prosecutions right now. A number of things came before me as judge. There were none that I remember that I participated except one. I remember spending about one week once while I was district attorney prosecuting some one out here for taking oysters off the natural reefs out here. Taking oysters off of a private reef and he defended on the ground that it was a natural reef. I think it was just in front of Biloxi here. Mr. Heidenham I think had the parties prosecuted for trespass on his oyster reefs. The only cases I remember now occurring out on the water during my time as district attorney or judge. There were other prosecutions. Verdicts of not guilty for a failure of proof in stating they were fishing in less than 14 feet of water.

Q. Judge I will ask you this question. You have stated that you have been district attorney for the State of Mississippi and also one of her circuit judges, whether as such, in either of these coast counties the State took civil or criminal jurisdiction of matters occurring in the sound, on the waters of the sound, and if so how far to the southward of the shore?

A. I have no recollection General except the cases I cited of any cases in my court at all. I do remember though at one time there was an attachment sued out in the circuit court of Harrison county Mississippi.

By Col. ZACHARIE: The counsel for Louisiana here interposes the same objection as was made above.

A. In the circuit court of Harrison county, Mississippi and levied on Cat island. I believe Mr. Duggan of New Orleans claiming for some debt, or some thing due to him, and I think it was levied on Cat island and possibly settled without any trial. It might have been pursued to a judgment. I don't remember that now.

Q. There is no dispute in this controversy as I understand it as to Cat island being in the jurisdiction of Mississippi?

A. Well now as to any particular instances I have no recollection of them at all.

Q. The formation of Harrison county first in 1841 amended
1689 subsequently perhaps in 1843, fixes the limit of her southern boundary co-extensive with the limits of the State according to that description given by the statutes of the State, and which have been, or will be introduced in this case—how far from the shore line would you say the southern boundary of the State of Mississippi and Harrison county was under her constitution and laws?

A. To the lines as laid down in the constitution.

Q. Which means as I understand it 18 miles from the shore?

A. 18 miles from the shore.

Recross-examination.

By Col. ZACHARIE:

Q. Judge, have you ever paid any particular attention to international law in these questions of boundaries?

A. I have not Judge.

Q. You have been interrogated in regard to certain lines on map No. 7, offered by the State of Louisiana, as to the effects upon Gulfport and other places. Have you ever studied or looked up the distinction between political jurisdiction and civil jurisdiction as affected by them?

A. I have not.

Q. Have you ever examined international law and the decisions under it in regard to fixing boundaries whether it be from the shore or coast? The distinction between shore and coast?

A. Not specially. I might have generally but not specially.
Q. Well now I understand that the opinion that you have ex-essed in looking at this map is simply an off hand opinion with-t any research upon the subject?
A. Upon the hypothetical question stated to me by Gen. McClurg, s sir.

Mr. WALTER A. WHITE, a witness introduced on behalf of the State Mississippi, being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. Mr. White, where do you reside?
A. Biloxi.
Q. I notice in the original bill of complaint filed by the State of ouisiana against the State of Mississippi in this case the minutes certain proceedings with reference to the line dividing these two ates to the waters of the gulf of Mexico, had by certain citizens of ouisiana and alleged commissioners appointed by that State, and e alleged commissioners appointed by the State of Mississippi; id appointments being by the governors of these two States re-ectively, including certain resolutions passed by these commissions. ie first by the commission of Louisiana and then the joint motion the commissioners appointed by the respective States, that W. A. hite was appointed by the governor of the State of Mississippi to rticipate in one or more of these joint meetings. I wish you ould state whether you are the W. A. White quoted in this pro-eding mentioned in the bill of complaint in this case?
A. Yes sir, I am.
Q. I get from the bill of complaint Mr. White that about January 19th, 1901, some citizens of Louisiana held a meeting at the 00 office of Mr. John Dymond Jr., in the city of New Orleans, at which the governor of the State presided and Mr. John mond Jr., acted as secretary, and that Lieutenant Governor Albert topinal offered a resolution, which was adopted requesting the vernor of Louisiana to appoint a commission to consider the termi-tion of the boundary line between the two States, and arrange for easy location and identification by a proper system of buoys. at among those appointed by the governor of Louisiana was Mr. bert Estopinal, Jr., John Dymond, Jr., H. C. Cage, Clement Story d Sidney F. Laws. That on the 26th day of January 1901 the vernor of Louisiana addressed the governor of the State of Missis-pi a letter enclosing a copy of the proceedings of the meeting ove mentioned and requesting the governor of Mississippi to ap-int a like commission on the part of that State, to join the com-ssion appointed on the part of the State of Louisiana. "To con-er the determination of the water boundary line, and arrange for easy identification by a proper system of buoys." That after-rds the governor of the State of Mississippi on the 9th day of Feb-

ruary, 1901, appointed E. J. Bowers, A. Kellar, W. A. White, Harry T. Howard and J. I. Ford.

This bill further alleges Mr. White that these two commissions met at the office of Mr. John Dymond Jr., in the city of New Orleans on Tuesday March 26th 1901 "To confer as to the boundary line between the two States to the waters thereof," and that at said meeting Mr. Harry Howard of Mississippi was made chairman, and Mr. John Dymond Jr., secretary and at that meeting "Commissioner W. A. White stated to the assembly that the Mississippi commission had not yet had an opportunity to confer as to the subject matter before them, and thereupon he moved, and the same was duly seconded by Mr. Clement Story that a recess of the joint committee be taken until 11.30 a. m."

This motion was put and adopted and the meeting then took a recess until 11.30 a. m. The bill further recites in its joint copies of the proceedings here mentioned that these joint commissions met again and were called to order at 11.30 by Chairman Harry T. Howard, and that Mr. John Dymond Jr., at the request of the Louisiana commission presented to the Mississippi commission the views of the Louisiana commissioners on the subject of the boundary line in the waters between the two States. The minutes of the meeting which I have mentioned go on to state that after Mr. Dymond had presented Louisiana's claim, which is set forth in the bill with which you are familiar, states that on motion of Mr. Bowers seconded by Hon. H. C. Cage "The Louisiana Boundary Commission were requested to express their ideas as to the boundary line on the map which had been the subject of discussion, the line to be delineated in red ink, which should be presented to the Mississippi commission subsequently, and they in turn should endorse their views thereon." This motion was put and carried.

The minutes copied in the bill further recite that the Louisiana commission invited the Mississippi commission to take lunch at the Cosmopolitan hotel, etc.

The bill further recites that the commission appointed on the part of the State of Mississippi met after some five months' delay on July 20th, 1901, and stated that as to the claim submitted by Louisiana the Mississippi commission were unable to concede, and that the difference between the two commissions was so great that there was no hope of reconciling them, and that the Mississippi commission thought it useless to submit a counter line proposition. That "the Mississippi commission considers as islands considerable territory which the Louisiana commission claims as main land, and the difference over this question of fact appears to us to be past reconciling.

We beg to disclaim any idea of being discourteous in failing to submit a counter line for them to consider.

It is apparent that the only hope of settlement is a friendly
1691 suit in the Supreme Court of the United States, and we respectfully suggest this course."

I have stated the question at length Mr. White in order to refresh your memory as to dates and circumstances, and will ask you to state to the commissioner, and through the commissioner in your own way the history of these commissions and of these meetings, and if you can what authority in law there was for either the appointment of the commission or the power of the commission in undertaking to act for their sovereign State, in determining and fixing the boundary line between the two States, or in arranging the easy identification of the lines by a proper systems of buoys, and to make any other or further statement pertaining to the issue that you desire to make in this matter?

A. With your permission I will answer the latter portion of this question first. I don't understand that the commissioners on the part of Mississippi had any authority to bind Mississippi, nor that the commissioners on the part of Louisiana had any authority to bind that State, nor that the action of the joint commission was binding on either State. I understand that if the two legislatures could have agreed upon a line and adopted it, and that line had been ratified by an act of Congress, that in that way the boundary line between the two States could have been established. And this, I understood to be the purpose of the appointment of the commission. I understood that if the commissioners from the two States had been able to agree, as to what the true line between the two States was, that the governors of the two States would recommend that the legislatures adopt that as the boundary line, and *for* the members of Congress from the two States could get an act passed fixing it as the boundary line of the two States. That was understood to be the extent of the duties of the commissioners appointed by the two governors, simply to recommend a line to be adopted by the two legislatures and afterwards ratified by an act of Congress. At the time appointed for a meeting in New Orleans of the commissioners from the two States I went there to the meeting and arrived in New Orleans on the morning train that got into the city about nine o'clock. The meeting was set for ten o'clock at the office of Mr. Dymond. I went there at the appointed time and met for the first time the members who were appointed on the board for the State of Mississippi. No conference had ever been had between Messrs. Bowers, Howard, Kellar and Ford and myself, and we had no meeting up to the time the joint commission met at Mr. Dymond's office. That being the case I requested a recess until 11.30 for the purpose of having a conference with my associates before we went into a joint meeting. When the commission convened again Mr. John Dymond on the part of Louisiana stated their position, and stated what they claimed to be the boundary line between Mississippi and Louisiana, claiming that all the water front of Hancock county and a part of the water front of Harrison county was Louisiana territory. I notice that the minutes of the meeting state "This view of the matter having been presented a general discussion followed during which the members of the Mississippi Boundary Com-

mission admitted that the view was a novel one to them, they being unable to pass upon it at the moment requested further time." That statement is also true. It was a novel proposition to us, and so far as I was concerned it was the first time that I ever heard that Louisiana claimed to own all of the water south of the line marked out afterwards by the Louisiana Boundary Commission: south of the line that they claim to be the boundary line, to-wit, the deep water channel leading from the mouth of Pearl river out through the pass between Cat island and Isle à Pitre. I know that it was claimed by some parties in Louisiana that the marsh islands, such as the islands in and around Bayou Boudreaux belonged to Louisiana, but I had
1692 never heard the claim made that the water north of these islands was in Louisiana, and that Grand island, Round island and Grassy island belong to Louisiana. Their position being so entirely different from what we supposed that it would be, and their claim being so much greater than we anticipated, we requested that a recess be taken and that the Louisiana commissioners would furnish us with a map marking out the boundary as they conceived the true boundary to be, and that we would in turn furnish them with a map showing the boundary line of Mississippi as we understood it, and that afterwards we would get together and have another conference and endeavor to agree on a compromise line if possible. Some months afterwards I learned that they had furnished to Mr. Howard a map with the line marked out according to their contention.

Q. What line if you remember now was it that they had marked out. The deep water channel?

A. It was the deep water channel line as appears on this map No. 7. About on that line somewhere near that line. Mr. Howard, who lived in New Orleans and had a summer home at Biloxi where he stayed a month of two in the summer, but at that time of the year was generally in New Orleans. Messrs. Bowers, and Kellar lived at Bay St. Louis thirty miles west of Biloxi. Mr. Ford lived at Scranton, twenty miles east, and there was never any meeting of the commissioners appointed by the State of Mississippi except the meeting held in the office of Mr. Dymond and the meeting called by Mr. Howard after the receipt of the map, furnished him by the Louisiana Boundary Commission to meet at Bay St. Louis, when for the first time Mr. Ford and myself did see the map furnished and which had been in the possession of Mr. Howard. I don't know whether Mr. Kellar and Mr. Bowers had ever seen the map before or not. When we examined the map it was manifest from the claims made by the Louisiana people that there was no possibility of our ever coming to an agreement either by compromise or otherwise, and we therefore agreed that we would submit no counter proposition, but would simply recommend that a suit be brought in the Supreme Court of the United States for the purpose of settling the boundary line, and this we did, we sent in a report to Governor Longino of our action in this matter, and in addition to the report

sent in Mr. Ford and I prepared a statement of what we conceived to be the true boundary line between Louisiana and Mississippi and set out the reasons. In that report we set out the reasons for the position we took. This report was only signed by Mr. Ford and myself for the reason that we had no meeting with the other members of the commission and it was not submitted to them.

Q. If you can remember what that separate report stated I would be glad if you would let it go in the record.

By Col. ZACHARIE:

Q. Have you got a copy of it?

A. No sir, I have not got a copy of that report. I had a copy of the report but I have searched for it once or twice and failed to find it. It has been mislaid or loaned to some one.

By Mr. MCCLURG:

Q. It is true that you called on the governor's private secretary for it did not you?

A. Yes sir.

Q. When you asked me if I had seen it I told you I had not and we went to look for it and could not find it?

A. Yes sir, what Governor Longino did with that report I don't know. He never acknowledged receipt of it and his private secretary could not find it, or failed to find it when the attorney general and I went in his office to look for it.

1693 Q. Now please state that report as near as you can remember it.

A. It would be impossible for me to state any thing like the language of the report, and even the entire substance of the report, but the report was to the effect that after a thorough investigation and examination of the questions involved with all the lights before us that we were of the opinion that the boundaries of Mississippi included all of the islands within 18 miles of six leagues of the shore. That the territory in dispute belonged to the State of Mississippi for the reason that it consisted of water and marsh islands that were within 18 miles of the Mississippi shore and were not within nine miles of the Louisiana shore or land. This report was in the form of a brief and cited the acts of Congress fixing the boundaries of Louisiana and Mississippi and also cited authorities to sustain some of the positions that we took. This report was signed by myself and J. I. Ford and sent to Governer Longino. Governor Longino never acknowledged receipt of the report and did not send it to the legislature with the other papers with reference to the boundary dispute. Afterwards I called the attention of attorney general to this fact and he and I went into the governor's office and had the governor's private secretary to look for the report and he failed to find it. I will say further in reference to the reason that this brief or report was not signed only by Mr. Ford and myself. There was only one other lawyer appointed from Mississippi besides Mr. Ford and myself, and

that was Mr. Bowers, who at that time was wholly occupied with other matters, and Mr. Bowers was unable to make an examination of the questions involved, and so stated at the last meeting that we had. That during all the time of the existence of the commission that he had been wholly unable because of the press of other business to give the matter any attention whatever. Mr. Kellar was a merchant, and Mr. Howard was a capitalist and not engaged in any regular business.

Q. I wish you would state Mr. White whether Mr. Bowers or Mr. Kellar had any business connections or associations in the city of New Orleans or the State of Louisiana at that time?

A. Mr. Bowers had a law office in New Orleans. I don't know whether Mr. Kellar had any business in New Orleans at that time or not. He had none so far as I know.

Q. It has bobbed up in this case Mr. White that there has been some kind of an agreement between the Oyster Commission of Louisiana and the Oyster Commission of the State of Mississippi fixing what they term neutral ground. A neutral line, which I understand to be drawn through the western edge of Grand pass southward by Sun Down island to the 18 mile limit, westward from the northern entrance of Grand pass along the coast of the string of islands to Malheureux point, and the mouth of Pearl river. That south of this line to what we term the marsh and where the testimony shows the best oysters for raw shipping are found is reserved exclusively for Louisiana fishermen, and that north and eastward of that line which I have mentioned is called neutral ground where Louisiana and Mississippi fishermen, oyster takers may go without molestation from either side. I wish to know if you know of any law or authority that these commissions had for fixing this line so as to bind the citizens of the two States?

A. They had no such authority. The State of Louisiana had an oyster commission composed of men who were familiar with the matters in dispute, and who had as their counsel Mr. John Dymond, a lawyer who thoroughly understands every question involved in this trial. Mississippi had never an oyster commission before. By the acts of 1902 the oyster commission was created. The law made it the duty of the governor to appoint men on that commission who were not engaged in the business of fishing or canning or shipping oysters, but who were familiar with the business.

Q. You mean the laws of Mississippi?

1694 A. The laws of Mississippi. The governor of Mississippi however appointed on this commission one man who was engaged in the business of selling and buying saw logs. Another man whose business had always been that of a saw mill man as I am informed, and another whose business was that of operating a flour mill. The other two had engaged to some *t*xtent in catching and planting oysters. Outside of the last two commissioners named no man on this commission knew any thing about the territory in dispute or of the matters involved in this controversy.

. Was there either of them lawyers?
. Neither of them was a lawyer, and I think I could safely say neither of them had ever seen at the time they made that agree- t any part of the disputed territory. I know that neither of n knew any thing about the contention of Mississippi with refer- to where the true boundary line was. They had no authority ind the State, but simply permitted the Louisiana commission, succeeded in getting an agreement from them fixing as far as could the boundary lines without any authority of law and in lute ignorance of the matter about which they were dealing and e effect of their action on this suit.
Mr. White, I will ask you to look at map No. 7 filed in this by the State of Louisiana and examine those lines marked 9 te and 9 nautical miles which indicate the claim of Louisiana different points, and also the red lines marked 18 statute miles 18 nautical miles indicating the claim of Mississippi, and I will you to state what you conceive would be the effect upon mili- and naval and commercial and general interests of the State of issippi if either of these lines would be established as being the mile limit of the State of Louisiana?

Col. ZACHARIE: The counsel for Louisiana objects and excepts is question as being irrelevant to the question of boundary, ng entirely with what might be the effect of establishing that dary and also on the further ground that this is mere opinion is asked from the witness.

The effect would be to take from Mississippi the control of the r front of nearly one half of the State, as the city of Gulfport is t the center of the shore line of the State of Mississippi.
Louisiana has stated in the bill of complaint, and as you know ou not as a lawyer has made it a penitentiary offense to dredge rs under certain conditions within her jurisdiction, and if her diction should be fixed at one of these lines what effect do you it would have upon the industries of Mississippi, especially if ould be fixed at the outer line near the channel extending from port to Ship island?
The oyster industry of Mississippi would be wholly destroyed. result would be that there would not be an oyster factory oper- in the State of Mississippi. It would be impossible for an oys- ctory to operate if it was dependent upon Louisiana territory s oysters for the reason that the State of Louisiana prohibits rs from being carried out of the State for canning purposes. all of the oyster territory from which the canning factories of ssippi draw their supply of oysters lies west and south of the rn line indicated on map No. 7.
I will ask you whether you have held any office under the of the State of Mississippi and if so what it was?
I have never held any State office. I have been district attor- f the sea coast district of Mississippi.

Q. For how long?

A. From June 1st 1896 until January 1st 1904.

Q. Were Jackson, Harrison and Hancock counties in your district?

A. Yes sir.

Q. The duties of the district attorney under the laws of the State of Mississippi is to advise the grand jury and to draw indict-
1695 ments, and to prosecute persons presented by the grand jury as I understand it. I will ask you to state whether you remember as a distinct fact without going into the details of the prosecution, whether or not while filling the office of district attorney in any of these coast counties you have prosecuted any persons for violating the laws of the State or any ordinance passed by the board of supervisors of either of these counties, of the oyster laws or ordinances?

By Col. ZACHARIE: The counsel for Louisiana objects and excepts to any testimony in regard to judicial proceedings until and unless the counsel for Mississippi shall pave the way for the introduction of secondary evidence and show that such judicial records have been lost, or destroyed or mislaid.

By Gen. MCCLURG: Counsel for Mississippi states that the witness will not be asked to state the contents of any record, but as indicated by the question to state as a matter of fact whether he as district attorney in the discharge of the duties of his office was ever called upon to prosecute any persons for violating the laws and ordinances mentioned.

A. Yes sir, I prosecuted a number of men both in Harrison and Hancock counties for violating the laws with reference to fishing oysters in waters in what we term the disputed territory.

Q. When?

A. I could not give you the dates.

Q. During your term of office?

A. During my term of office between 1896 and the beginning of this year.

Q. Between June 1st, 1896, until the 1st Monday in January 1904?

A. Yes sir, the only question in those prosecutions that we ever investigated with reference to fixing the place was the question as to whether it was within six leagues of the shore.

Q. In any of these prosecutions was the jurisdiction of the State 18 miles south of the shore ever disputed?

A. Not within 18 miles of the shore.

Q. And the jurisdiction of the State within 18 miles of the shore was not disputed?

A. It was never disputed so far as I know at any time in any court of this State.

Q. Go ahead and state any thing else you may think of that has any bearing on this case?

A. I will state this fact also. That in 1892 or 1893 the first dredge

at that ever dredged oysters in the waters of Mississippi was built Messrs. Lopez and Ducate. Pretty soon after it began to work ing oysters in the territory now in dispute the board of super- ors of Harrison county passed an ordinance to prohibit the dredg- of oysters in the waters of Harrison county, and the board of ervisors of Hancock county did the same, and thereupon they to cease operating the boat, and I was employed by Lopez & cate to represent them before the board of supervisors in an effort get the board to modify their ordinance, so as to permit them to in deep water. And after several meetings of the board and siderable controversy over the matter the order was made per- ting the dredging of oysters in water of a certain depth. I think vas fourteen feet.

. You say that they ceased to dredge oysters in either of these nties until the ordinance was modified?

. The board of supervisors of Harrison county modified their inance. The legislature of the State afterwards passed a law mitting the use of dredges, and the board of supervisors of Han- k county, I don't remember exactly how their order was, passed order prohibiting the use of dredges in that county. My recol- lection is that there were several indictments for violating 6 that ordinance, F. W. Eaton, amongst others. Eaton was tried and convicted and the supreme court held that the inance of the board of supervisors was void, and reversed the , but the question of jurisdiction of the courts of Hancock county never questioned.

Cross-examination.

By Col. ZACHARIE:

. Mr. White I understand the functions of these boundary men ither side, it was simply advisory, and if the commissions had ed they were simply to recommend to the legislature of either e for the ratification and establishment of a certain boundary if could agree. The two commissions?

. Yes sir, that is my understanding.

. Mr. Bowers you say was a member of this commission. Was t that time a Congressman?

. No sir, he was not.

. Was it just prior to his election?

. Mr. Bowers afterwards was elected to Congress in 1902. In ember 1902. This was in 1901.

. In the investigation that Mr. Ford and yourself made did you then in the act admitting the State of Louisiana into the Union the State of Mississippi into the Union in limiting the bounda- that the word coast is used in the Louisiana act and the word e is used in the Mississippi act?

. Yes sir, we noted that then. That is used the word coast with rence to Louisiana and the word shore in reference to Mississippi

but we understood these provisions to have reference to the water front extending seaward, and we did not consider the marsh islands situated in the disputed territory as coming within the meaning of the word coast as used in describing the boundary of the State of Louisiana.

Q. Did you or did you not examine the authorities on the subject of boundaries in which coast is defined as embracing all the islands off the main land of the State. For instance the celebrated decision of Mansfield?

A. Yes sir, we examined the case of Mansfield against Moss.

Q. I am speaking of the English case. A Spanish vessel was captured and taken into the prize court, in which the prize court decided that these islands were a part of the coast?

A. What case was this?

Q. The case of the Anna?

A. I don't remember to have examined that case.

Q. That is the leading case on the subject?

A. You state where they decided that these islands were a part of the coast of Louisiana in that case.

Q. Yes sir. Where the word coast is used it means the islands, and included the islands adjacent to the main land?

A. That had no reference to these particular islands?

Q. No sir?

A. I think I remember the case. It has been a long time and I have had no occasion to charge my memory with it since, and I don't remember to have read that particular case, but I examined the authorities where the distinction is made between the use of the words coast and the words shore.

Q. Now did you examine the authorities of international law in regard to the distinction between the political and civil jurisdiction in fixing boundaries?

A. I don't remember sir to what extent we examined that question.

Q. Now in the opinion which you give in your testimony in regard to the effect upon Gulfport and other places along the Mississippi coast in case that the nine mile theory of Louisiana was supported.

1697 I believe you stated it would have a great effect upon the commerce and industry and so on of these ports. Would that interfere in any way in the world with the coming to and going from these ports, or would it do any thing more than to decide in this controversy that the oysters lying within these boundaries belonged to Louisiana?

A. It would have the effect of giving to Louisiana the criminal jurisdiction of Mississippi's shore.

Q. Of the Mississippi shore or the waters near the shore?

A. It would deprive the State of Mississippi of any jurisdiction either civil or criminal of any of the waters touching the western half of her shore line. Say from Gulfport to the westerly line of Mississippi.

Q. These cases which you have mentioned. The Eaton case I believe was one and another one. Are they reported in your supreme court reports?

A. Yes sir.

Q. How long ago. Could you name the year and the volume in which they are reported?

A. I think in the year 1900 or 1901 these cases were tried. I will also say Colonel that I prosecuted a man for violating the laws of the State at Ship island. That is 12 miles of the Mississippi shore. Robert Seamore, that case was also in the supreme court. I think his honor, Judge Bullard, the commissioner presiding defended him if I am not mistaken, and in that case the supreme court, without questioning the jurisdiction of the State otherwise held that the State of Mississippi had no jurisdiction of this place where this offense occurred for the reason that Mississippi in 1858 had ceded her criminal jurisdiction of that part of Ship island to the United States for military purposes.

Q. It was not a military reservation was it on the part of the United States?

A. No sir, it was not. It was a subsequent taking on the part of the United States for the purposes of a fort.

Q. Well now what you have said in regard to the effect on these places on the Mississippi coast is simply an opinion of yours?

A. If the fact that Mississippi's jurisdiction is coextensive only with its borders is a matter of opinion then my answer to that question is a matter of opinion.

Q. That is a conclusion that you draw from the facts?

A. I did not suppose that that was a matter about which an opinion could exist.

Redirect examination.

By Gen. McCLURG:

Q. When I asked you what office you had held in the State of Mississippi I understood you to say that you had not held any under the State?

A. State office.

Q. If my recollection serves me right we both fought and died together in the legislature of 1896?

A. Yes sir, I was sentenced to the legislature in 1896, and served out a part of my term and was pardoned by the governor appointing me district attorney in June.

SATURDAY MORNING, June 25th, 1904.

The commission met this morning at 9 o'clock, and there were present, Hon. William D. Bullard, commissioner, Gen. Monroe McClurg, counsel on behalf of the State of Mississippi, and Col. F. C.

Zacharie, counsel on behalf of Louisana, and the following
1698 testimony was taken, to-wit:

It is hereby agreed between the counsel for Mississippi and Louisiana here present, and in the presence of the commissioner and approved by him, that the original agreement and all agreements heretofore made in regard to the time and places of taking testimony are modified and amended, so that upon adjournment today, this June 25th 1904, no further testimony will be taken on either side until the 8th, day of August 1904, when the commission will meet at Bay St. Louis, Mississippi, and Mississippi will resume taking testimony in chief at that place or at Jackson, Mississippi as she may then determine, or at both until and including the 20th day of August 1904, when she will conclude her testimony in chief, and that thereafter the State of Louisiana shall have the period embraced between the 21st day of August and the 15th day of September for the purpose of taking evidence in rebuttal, and that Mississippi shall have after the 15th day of September up to the 1st day of October 1904 for the taking of testimony in sur-rebuttal, and it is agreed that the taking of testimony in its entirety shall be concluded on both sides on or before the 1st, day of October, 1904 as specified in the original agreement between the counsel on both sides.

Counsel for Mississippi offer and introduce in evidence the following documents, a copy of each one of which is now handed to the counsel for the State of Louisiana.

Mississippi Document No. 25 A. Being an ordinance of the board of supervisors of Harrison county adopted at the August term, 1882.

Mississippi Document No. 26, being an ordinance of the board of supervisors of Harrison county adopted at the August term, 1884.

Mississippi Document No. 27 Being an ordinance of the board of supervisors of Harrison county adopted at the March term A. S. 1885.

Mississippi Document No. 28. Being an ordinance of the board of supervisors of Harrison county adopted at the March term 1888.

Mississippi Document No. 29, being an ordinance of the board of supervisors of Harrison county, adopted at the November term 1892.

Mississippi Document No. 30, being an ordinance of the board of supervisors of Harrison county, adopted at the December term, 1892.

Mississippi Document No. 31, being an ordinance of the board of supervisors of Harrison county, adopted at the January term 1893.

Mississippi Document No. 32, being an ordinance of the
1699 board of supervisors of Harrison county adopted at the January term 1893.

Mississippi Document No. 33, being an ordinance of the board of supervisors passed at the August term 1893 of Harrison county.

Mississippi Document No. 34, being an ordinance of the board of supervisors of Harrison county, passed at the October term 1893.

Mississippi Document No. 35, being an ordinance of the board of supervisors of Harrison county passed at the November term 1893.
Mississippi Document No. 36 being an ordinance of the board of supervisors passed at the December term, of Harrison county, 1893.
Mississippi Document No. 37, being an ordinance of the board of supervisors of Harrison county passed at the February term 1894.
Mississippi Document No. 38, being an ordinance of the board of supervisors of Harrison county, passed at the September term 1892.
Mississippi Document No. 39 being the pilots' laws, and rules and regulations of Ship Island harbor, Mississippi. Annotated Code 1892, being chapter LIX, An act authorizing the board of supervisors of each county having a sea port or harbor therein to appoint a board of pilot commissioners, and amended by chapter 128 of the Laws of the State of Mississippi, passed at a regular session of the Mississippi legislature, held in Jackson, commencing on January 7th, 1896, and ending March 24th, 1896.

Capt. JOHN WALKER being recalled on the part of the State of Mississippi, testified as follows:—

By Gen. McCLURG:

Q. Captain Walker, you have testified in this case once before?
A. Yes sir.
Q. We have introduced as evidence in this case as Mississippi Document No. 39, the laws of the State authorizing the board of supervisors of each county to appoint a board of pilot commissioners and in connection with that and as a part of it "Rules and regulations adopted by the pilot commissioners of Ship Island harbor on the 15th of April 1898. Rules and regulations for harbor masters of Ship Island harbor adopted October 6th, 1894. I wish you would please state whether or not you have had any connection with that board?
A. Yes sir, In 1887 I was appointed a member of the board.
Q. Of what?
A. Of pilot commissioners, and served one term of four years, and in 1891 I was again appointed and am at present the secretary of the board of pilot commissioners.
Q. For Harrison county?
A. For Harrison county and the State of Mississippi.
Q. During your service upon that board over what territory has the board exercised jurisdiction?
1700 A. On the waters within the boundary of Harrison county.
Q. To what limit from the main shore line of the county southward?
A. Well I would consider that the board of pilot commissioners had jurisdiction over the waters inside of Ship island, Cat island, and down to the Grand marsh. The shores of the Grand marsh to the line a little west of Malheureux point, running north and south from Pearl river.

Q. How far due to the southward does that board—has that board exercised jurisdiction?

A. Well we have never had occasion during my time to administer on anything south of Cat island, or south of Ship island, nor over there to the Grand marsh even.

Q. Captain, I will ask you to look at Document No. 39 to which I called your attention awhile ago, and ask you whether those are the laws, rules and regulations under which your board has been acting?

A. Yes sir.

Q. And you were kind enough to furnish to the commission three copies of these rules?

A. Yes sir.

Q. When you were on the stand the other day you made some statement about having been carried through Three Mile bayou, and that perhaps a reference to some memorandum you had would refresh your memory about it. Have you anything further to say about that now?

A. Only as to the exact date and the name of the steamer. It was the steamboat Florence and the date was the 14th, of April 1867.

Q. What was the route that you travelled with that steamer that day?

A. Do you mean through the marsh?

Q. Yes sir.

A. Well as I stated then I could not tell exactly what the route was. This old Greek fisherman did the piloting and I did the sounding, and when I came out in Mississippi sound I did not ask him whether we came out through Three Mile or Nine Mile bayou, but before we entered from Chandeleur sound he told me that he could go through and take the boat through Three Mile bayou.

Q. What draft was your boat?

A. About four and a half feet I would judge.

Cross-examination.

By Col. ZACHARIE:

Q. Captain I understood you to say in your examination in chief, that while you considered that your jurisdiction extended to the south of Ship and Cat islands, and even down to Grand marsh as far as Malheureux point, yet you never had occasion to assert your jurisdiction in the Grand marsh as you call it down to Malheureux point?

A. That is what I said.

Q. Do you think you could recollect the name of the old Greek that piloted you through there if I should name it?

A. No sir, I could not call the name. He was a deck hand on the boat.

Q. Was it Apostalo?

A. I would not be able to say even if I heard it.
Q. I understood you to say Captain that you were first appointed on the board of pilot commissioners in 1887?
A. Yes sir.
Q. In 1887?
A. Yes sir, I was appointed some time in April 1887.
Q. Could you refer us to the act of the State of Mississippi under which you were appointed in 1887?
A. No sir, I don't believe I could.
Q. You don't know the act under which you were originally appointed?
A. Originally in 1887 I served one term.
Q. You don't know the date of the act or the number?
A. No sir.
Q. This steam Florence. She was a low pressure river steamer?
A. A high pressure side wheel steamboat.
Q. You think that she drew about four and a half feet of water?
1701 A. Between four and four and a half. I could not tell you exactly, because we had burned out some of the fuel.
Q. Did you notice the stage of the tide as you went through there?
A. No sir, I did not notice that particularly.
Q. Whether it was low tide or high tide?
A. I did not notice that particularly. I was giving my attention to the lead line.

Capt. GEORGE MCCAUGHAN, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLURG:

Q. Where do you live?
A. Mississippi City.
Q. How old are you?
A. 63.
Q. How long have you lived in Harrison county?
A. I was born at Mississippi City and have been there nearly all of my life.
Q. Have you ever been engaged in boating of any kind of the sound or Lake Borgne?
A. Yes sir, from here to New Orleans.
Q. Since when?
A. Since about 1867 or 1866.
Q. In what capacity? As captain or master?
A. Captain.
Q. Do you know where there is a sailing line. Deep water sailing line of channel out of the Rigolets and the eastern mouth of Pearl river going eastward, north of Grassy island and Half Moon island or Grand island?

A. Yes sir, I do.

Q. How far to the southward of the Mississippi shore have you been since 1867 or 1868?

A. About as far down as the lower end of Brush island.

Q. When you were at the lower end of Brush island in what State were you?

A. I imagined that I was in the State of Mississippi.

Q. Why did you think you were in the State of Mississippi Captain?

A. Because the boundary called for 18 miles south of the main land, which I have always understood that was the boundary line.

Q. Has that been the general acceptation and understanding of the southern limits of the State during your knowledge of it?

A. It has been with me.

Q. How has it been in the community in which you lived?

A. I have never heard it discussed at all.

Q. Louisiana claims in this suit that this sailing line to which I called your attention awhile ago is the true dividing line between the two States. Have you any knowledge or information as to that claim?

A. No sir, I have not. There are two channels there. One on the south of Cat island and the other on the north side. You go in here and pass south of St. Joseph's island.

Q. The one passing south of Cat island is the one that Louisiana is seeking to establish as the boundary?

A. Yes sir, that would not give them 18 miles by a long ways.

Q. It would give very little at some places?

A. Yes sir. You see I was on Chandeleur island with a ranch four or five years, in passing backwards and forwards, I generally came through Grand pass and Cat Island pass, south of it.

Q. What was your business on Chandeleur?

A. I had a cattle rance over there.

Q. A cattle ranch?

A. Yes sir.

Q. When was this?

A. I don't remember exactly the year, but it was about 25 years ago.

Q. Is that the ranch that Roderic Seal was interested in?

1702 A. Yes sir, I had a good many of his cattle there.

Q. I believe it was destroyed by a storm?

A. The island was going to pieces when I left there. Going to pieces and the myrtle bushes were all dying, and every blow was blowing them away.

Q. Where were you?

A. I was on a place called Schooner harbor about ten miles south of the north end. That is where I built the house.

Q. Your home was in Mississippi at that time?

A. Well I was single then. Of course I had not deserted my home. I went out to the Chandeleur islands.

Q. Mr. Seal lived in Mississippi?
A. Yes sir.
Q. He lived at Mississippi City?
A. Yes sir.
Q. And he had his cattle on Chandeleur island?
A. Yes sir.
Q. And you had cattle there?
A. Only my interest in the cattle.
Q. Was Roderic Seal who had the cattle there the old lawyer that lived down there?
A. Yes sir.
Q. Represented Mississippi in the house and senate?
A. Yes sir, I think he was up there several times.
Q. And the father of the present sheriff of this county?
A. Yes sir.

Cross-examination.

By Col. ZACHARIE:

Q. Captain, you said that when you were as low down as Brush island you imagined that you were in the State of Mississippi. When you were as low down as the lower end of Brush island?
A. Yes sir.
Q. What did you base this opinion on?
A. On the 18 miles.
Q. What did you base your opinion on?
A. On the 18 miles.
Q. Where did you derive your information from?
A. I am not positive whether I got it from the old revised code or not of Mississippi.
Q. You have never examined the act admitting Louisiana into the Union have you?
A. No sir.
Q. Giving her all of the islands with in three leagues?
A. No sir, I have not. When I was in the oyster business here there was no contention.
Q. You say that you never heard this question discussed?
A. No sir.
Q. Who owns Chandeleur islands?
A. I always thought that it belonged to the Government.
Q. Belonged to the United States Government?
A. The United States.
Q. Do you know whether it was a military reservation or not?
A. No sir, I do not.
Q. How did you regard Chandeleur islands, as being in the State of Mississippi or Louisiana?
A. I regarded them as being in Louisiana.
Q. That portion of the disputed territory lying between Malheureux point and Isle à Pitre. You know that territory do you?

A. I am acquainted around Isle à Pitre as far as Grand pass.

Q. What is that territory generally called by the fishermen and other people along this coast. Is it not called the Louisiana marsh?

A. Not there, no sir. To the south of there I think it was generally termed the Louisiana marsh.

Q. You have never heard it called Louisiana marsh?

A. No sir, not Isle à Pitre.

1703 Q. Going westward from Isle à Pitre. That portion of the disputed territory. Have you ever heard that called Louisiana marshes?

A. I don't think I have ever heard it spoken of.

Q. You have never heard it spoken of?

A. No sir.

Q. You say that you were in the oyster business for some time?

A. Yes sir.

Q. When was this. About?

A. I don't remember the date. Up to about 10 of 11 years ago.

Q. In what portion of the oyster territory were you engaged in fishing?

A. Shipping raw oysters from Mississippi City. I had them brought in there and planted there in the summer and shipped them in the winter.

Q. Did you engage in shipping oysters or in transporting them from one portion of this territory to the other?

A. I bought them from the boats. I don't know where they got them from. They fished on what is called Telegraph reefs and sometimes Creole gap, and sometimes west of that.

Q. You know that only by hearsay?

A. Yes sir that is all.

Q. You had no personal knowledge of it?

A. No sir. I paid so much a barrel for planting.

Q. You are still living at Mississippi City?

A. Yes sir.

Redirect examination.

By Gen. McCLURG:

Q. You state that you had never heard the marshes spoken of. You did not mean to state that you had never heard of them?

A. I never had heard Isle à Pitre spoken of as the marsh.

Q. You know where the marsh is?

A. Well I have sailed along on what is called the Louisiana marsh. That portion of the marsh south of the mouth of Turkey bayou. I would hear some talk occasionally since this matter has come up between Louisiana and Mississippi and I always had had a chart at my house and I gave them an idea of the boundary line, across south of Brush island. I think a little below the mouth of Turkey bayou. That is my opinion.

Q. I believe you stated awhile ago that you had been as far down as Brush island?
A. Yes sir, and Martin island.
Q. Were you taking oysters?
A. No sir, I was on my way to Chandeleur island.
Q. That is at the time you were looking after the cattle?
A. Yes sir. I passed backwards and forwards in a light draft schooner.
Q. You would come up this way and through Grand pass?
A. Yes, sir, it is not such a heavy sea that way.
Q. How far is it from Mississippi City to the Chandeleur islands?
A. I always called it 32 miles on a direct line.
Q. Were you ever a member of the board of supervisors of your county?
A. No sir.
Q. Did you ever hold any office in your county at any time?
A. I was county surveyor.

Cross-examination.

By Col. ZACHARIE:

Q. I point out to you on this *pro-forma* map, not yet offered in evidence Turkey Bayou, Johnson bayou and Grand pass. I understood you to say in reply to the questions of the counsel for Mississippi that you regarded this territory south of these mouths as being the Louisiana marshes?
1704 A. Yes sir, that is my opinion. I can not — that is based on any thing.
Q. Is it not a fact that the territory to which I have just alluded is generally called amongst the fishermen and amongst the people along the coast as the Louisiana marshes?
A. I think so sir.

Redirect examination.

By Mr. MCCLURG:

Q. You have heard of the Florida parishes in Louisiana too have not you?
A. No sir.
Q. You never heard about that?
A. No sir.

By Mr. MCCLURG: The counsel for the State of Mississippi offers and introduces in evidence on the part of the State map B. to which is attached the following certificate.

"Department of Commerce and Labor.

Coast and Geodetic Survey.

WASHINGTON, June 8th, 1904.

Certificate.

A portion of the composite chart published by the Coast and Geodetic Survey in March 1904, composed in parts of charts Nos. 190, 191, 192; was enlarged by photography on bromide prints. Tracings were then made of the shore lines, by title, scale and miles and lettering from which paper negatives were made. The prints composing this map were then made from these negatives and assembled. This made is therefore a true copy of these four photographs from the above described chart. The small area not shown on said chart in the vicinity of the lettering of the — was added to the copy of said chart from surveys by the United States Land Office before the enlargement was made.

I certify that the above is a true statement.

A. L. BALDWIN,
Computer, Coast and Geodetic Survey.

Said map is further identified by the following.

"The southern boundary line of the State of Mississippi was certainly and indisputably fixed and designated by section 2, chapter 23 of the acts of the Congress of the United States creating said State and approved March 1st, 1817, found in vol. 3, p. 348 of the Statutes at Large as follows— Be it further enacted, that the said State shall consist of all the territories included within the following boundaries to wit: Beginning on the River Mississippi at a point where the southern boundary line of the State of Tennessee strikes the same; thence east along said boundary line to the Tennessee river; thence up the same to the mouth of Bear creek; thence by a direct line to the northwest corner of the county of Washington; thence due south to the gulf of Mexico; thence westwardly including all islands within six leagues of the shore to the most eastern junction of Pearl river with Lake Borgne; thence up said river to the 31st degree of north latitude; thence west along the said degree of latitude to the Mississippi river; thence up the same to the beginning."

A copy of said map is now furnished to the counsel for the State of Louisiana.

To which offer counsel for Louisiana excepts and objects in
1705 so far as the matters contained in the certificates relate to the fixing of the boundary, on the ground that the endorsements or certificates thereunto attached, that is to said map, are inadmissible as shown because declarations on the part of a subordinate officer

e Coast and Geodetic Survey Department, contained in the cer-
ates thereunto attached. That said map could only be admis-
e if at all on the person preparing said map being introduced as
tness and being subjected to cross examination as to the reasons
grounds upon which the declarations are based " That the south-
boundary lines of the State of Mississippi was certainly and in-
utable fixed etc.," that being a question of law and not a ques-
which can be certified to *ex-parte* by the cartographer. Counsel
he State of Louisiana do not object to the admission of the map
ed to prove *rem ipsam*, that such map was prepared by a sub-
nate officer of the Const and Geodetic Survey at the request of
Mississippi counsel showing the territory in dispute, and also
ing the claims of the State of Mississippi as evidenced by the
ines delineated thereon, but counsel for Louisiana excepts and
cts to the offer in evidence of this map for any other purpose,
t or effect other than as proof of *rem ipsam*.
unsel for Louisiana do not object or except to the admission of
map in evidence on account of non-authentication, but to the
ntary statements of the cartographer contained in the certifi-
annexed thereto, and except as to this voluntary statement the
is admitted to be admissable.
is agreed by counsel for the State of Mississippi and Louisiana
the counsel of Mississippi shall have delineated in a blue line
oundary line as claimed by the State of Louisiana, this being
only *pro forma*, involving no admission on either side.

1706 United States Supreme Court.

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI.

Vol. 4, p. 924 to p. 1144, incl.

1707 (Original.)

In the Supreme Court of the United States.

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI.

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1709 In the Supreme Court of the United States.

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI. } Original Cause, No. —.

Pursuant to adjournment at the club house of the Biloxi Yacht Club at Biloxi Mississippi, on the 25th, day of June 1904. the commission on the part of the State of Mississippi met on this 8th, day of August 1904, at the court room in the city of Bay St. Louis Mississippi, and proceeded to take testimony on the part of the State of Mississippi in this case.

Present: Hon. William Bullard, commissioner on the part of the State of Mississippi. Frank M. Peyton, official stenographer on the part of said State. Hon. John Dymond Jr., and Col. F. C. Zacharie on the part of the State of Louisiana, associate counsel, and, Hon. Monroe McClurg, of counsel for the State of Mississippi.

GEORGE P. HEWES, a witness introduced on the part of the State of Mississippi, being duly sworn, testified as follows :—

By Gen. MCCLURG :

Q. Mr. Hewes, where do you reside?
A. Gulfport, Mississippi.
Q. How old are you?
A. 36 years old.
Q. Gulfport is in Harrison county?
A. Yes sir.
Q. I understand that you were born and raised in that county?
A. I was sir.
Q. Have you ever held any office in that county?
A. Yes sir.
Q. What?
A. Sheriff of the county from 1896 to 1900.
Q. Do you mean to say from the first Monday of January 1896 to the first Monday of January 1900?
A. Yes sir, and I was representative in the legislature from 1900 to 1904.
Q. Of course you mean Harrison county, Mississippi?
A. Harrison county, Mississippi.

Q. In this suit Mr. Hewes by the State of Louisiana against
1710 the State of Mississippi respecting the water boundary between the two States it is charged substantially that owing to the difference in the laws between the two States regulating the oyster industry and in providing penalties in the different States for a violation of these laws much confusion has resulted. That citizens of the State of Mississippi in violation of the laws of the State of Louisiana have been fishing oysters with dredges in the natural reefs of the waters of Louisiana under claim that they were in the waters of the State of Mississippi and that at the time of filing this bill in October 1902 affairs had reached such a crisis that to avoid an armed conflict between the sheriff and officers of the parish of St. Bernard in the State of Louisiana and the sheriff and officers of the county of Harrison in the State of Mississippi a meeting of the citizens of Louisiana was called by the governor of that State, and certain proceedings were had by that public meeting, which resulted in resolutions calling upon the governor of the State of Mississippi to appoint a commission to act with a like commission appointed by the governor of the State of Louisiana to consider the determination of the water boundary line between the two States and arrange for its easy location and identification by a proper system of buoys. I will thank you to state to the commission if during the time that you were sheriff of Harrison county Mississippi from the 1st, Monday of January 1896, to the 1st Monday of January 1900 you had any knowledge or information of any serious contention, or of any crisis, or of any threatened armed con-

flict as mentioned in the bill of complaint from which I have taken my question, and if you have to state it?

A. Well during my incumbency of the office of sheriff I never heard of the slightest contentions existing between the people of Harrison county and those of Louisiana in reference to the fishing of oysters in Louisiana or in Mississippi.

Q. Were you ever called upon in any manner as one of the civil officers of Mississippi to quell any riot or other disorder between the citizens of Harrison county Mississippi, and the citizens of St. Bernard parish Louisiana?

A. I was not. I never heard of any difference at all between the two States with reference to the oyster question.

Q. Can you say whether there was ever any appeal to the law of this State to settle any controversy over the State line at all?

A. None that came to my knowledge sir.

Q. I understand you to say Mr. Howes that you were raised in Harrison county?

A. Yes sir.

Q. If at any other time than the time that you filled the sheriff's office you had any information as to any controversy between the citizens of Louisiana and the citizens of Mississippi over any part of either State respecting the boundary line between the two State in the waters of the Gulf or the Mississippi sound state what it was?

A. I never heard anything, save what I have read in the news papers sir.

Q. Except what?

A. What I have read in the newspapers.

Q. Was that all since the institution of this suit?

A. Well the most of it has been since the institution of this suit.

Q. During the time that you were sheriff or prior to that time, as far back as you may know or recollect state if you can what the southern boundary line of Harrison county is and has been?

A. Well generally I have always understood it to be 18 miles out in the Gulf, from say the southern boundary line.

Q. You mean to say 18 miles from the shore?

A. From the shore yes sir.

Q. Please state whether or not according to your knowledge and information on the subject the authorities of the State of Mississippi, I mean by that of course to say the civil authorities of Harrison county, State of Mississippi, have claimed sovereignty

1711 and jurisdiction on the part of the State of Mississippi exercised through the officials of Harrison county as extended to the 18 mile limit of which you have just spoken?

A. I cannot say sir that I have any definite information as far as that is concerned except that I have stated. It has always been generally understood as far as I knew that Mississippi claimed 18 miles out there as the jurisdiction that the State of Mississippi had.

Q. During the time of your term as sheriff were there made any

rests in the enforcement of the rules and regulations of the oyster dustry by the board of supervisors of your county or by the laws the State of Mississippi?

A. I cannot recollect now a single arrest with reference to the elation of the oyster law during that period.

Q. Can you say how far out to the south of Harrison county the izens of Mississippi have been taking fish and oysters?

A. I can not sir.

Q. During your whole life have you had any information or owledge of any claim on the part of the State of Louisiana up to e beginning of this suit that the deep water channel running from e eastern junction of Pearl river with Lake Borgne, out north of alf Moon island through Mississippi sound, north of Isle à Pitre, uthwest of Cat island, through Cat Island pass and through handeleur sound, north east of Chandeleur island to the gulf of exico was the true water boundary between these States?

A. No sir, I never heard what Louisiana claimed as the boundary tween Louisiana and Mississippi out there.

Q. State please whether you ever heard any discussion prior to e filing of the bill in this case as to where the boundary line be- een the two States was?

A. I have not. That is the first time I ever heard any discussion the question.

Q. Your statement that it extended out 18 miles, you have said I lieve was the general understanding?

A. Yes sir.

Q. In your county?

A. Yes sir.

Q. Were you ever a member of the board of health or of the arantine board of your county?

A. No sir.

Cross-examination.

By Mr. DYMOND:

Q. Mr. Howes, what relation are you to Mr. F. S. Howes, the sec- ary of the Oyster Commission of Mississippi?

A. He is my brother sir.

Q. I understand you were the sheriff of Harrison county from nuary 1896 to January 1900?

A. Yes sir.

Q. Well if a meeting was held in New Orleans on the 19th of nuary 1901, at which the governor of Louisiana was requested to point a commission to confer with a similar commission on the rt of the State of Mississippi, to be appointed by the governor of t State to try to determine the boundaries, was not that after you d ceased to be the sheriff of Harrison county?

A. It was.

Q. Now after you had ceased to be the sheriff of Harrison county

were you as closely identified with the political and public affairs of the county as you had previously been?

A. No sir, not necessarily.

Q. Harrison county includes what cities or coast towns as the principal towns?

A. Biloxi, Mississippi City, Gulfport, Long Beach and Pass Christian.

Q. As I understand it from an oyster point of view Biloxi
1712 is the principal of these coast towns, is not it?

A. Yes sir, by far in that business.

Q. Did you ever in your incumbency as sheriff have occasion to hear any of the oyster fishermen of the State of Mississippi complain in regard to their being excluded from what is called the Louisiana marshes?

A. No sir, not during my incumbency.

Q. Did you have occasion to talk with them at all?

A. I suppose in holding a public office that I did occasionly meet some of them.

Q. If witnesses on the part of the State of Louisiana had testified that by direction of the police jury of the parish of St. Bernard of Louisiana, an expedition had been sent out and the Mississippians had been warned to keep out of what is called the Louisiana marshes you would not be prepared to deny that as a substantial fact would you?

A. I would not of course. I have no knowledge of it at all. I could not deny it of course.

Q. Those things might have happened without your knowing it and without those people reporting that fact to you?

A. Undoubtedly it could have happened.

Q. You know Judge Neville do you not?

A. Yes sir, I do.

Q. About 1898 what position did he occupy? Can you recollect from memory?

A. I think about 1898 Judge Neville was our circuit judge of this district.

Q. Was he at any time prior to that the district attorney of either Hancock or Harrison counties?

A. He was district attorney for a number of years for this district yes sir.

Q. Did that include Harrison and Hancock counties?

A. Yes sir.

Q. Did you have any talk with Judge Neville in regard to his visiting the State of Louisiana and conferring with the district attorney of the parish of St. Bernard in regard to this conflict as to the rights of the oyster fishermen of the respective States?

A. I have no recollection of having had any conversation with him about it.

Q. He never told you any thing about that so far as you know?

A. No sir.

Q. Now in regard to this question of boundary limits Mr. Howes as I understand it you say you have always understood that Mississippi's limits extended 18 miles south of her coast line. Was not that due to the fact that the constitution of Mississippi so described her limits as including all islands within 18 miles and that the act of Congress creating Mississippi also so described it?

A. I presume so. It was simply as far as I know the general accepted idea that Mississippi had jurisdiction 18 miles out there.

Q. You were not personally acquainted with what the act of Congress creating the State of Louisiana contained were you?

A. No sir, I was not.

Q. Now in your capacity as sheriff of the county of Harrison were you aware of the fact that there were lands south of the coast line and within 18 miles of the coast line of Mississippi?

A. That there were lands south?

Q. Yes sir.

A. Yes sir, I considered Ship island—as I understood it Mississippi had the right even there to follow criminals over there and return them. That certain jurisdiction was ceded to the United States in Ship island.

Q. Was Cat island within the limits of Harrison county?

A. Well I could not say. Yes sir, it was considered within the limits of Harrison county. It was assessed in Harrison county and the taxes were collected on it in Harrison county.

Q. How far westward did the Harrison County line extend?

1713 A. Well I can only tell you as far as I know that the dividing line is to Bay St. Louis. The bay of St. Louis divides Harrison and Hancock counties, as I understand it.

Q. If that line was projected south would it not go westward of the eastern end of Isle à Pitre?

A. I could not tell you Mr. Dymond. I don't know.

Q. As a matter of fact was not Isle à Pitre ever assessed on the assessment rolls of the county of Harrison and taxes collected by you while you were the tax collector?

A. I think not sir.

Q. As I understand it no occasion prior to this oyster dispute has arisen so far as your knowledge goes which would call into question the jurisdiction or the rights and powers of the respective States?

A. None at all sir.

Q. Are you aware of the channel that runs from the mouth of Pearl river southeasterly through Mississippi sound, through between Cat island and Isle à Pitre, and northeast of the northern end of Chandeleur islands. Do you know of such a deep water channel?

A. I don't know anything about that.

Q. You are not well acquainted with the waters of the Mississippi sound?

A. No sir, not that part of it.

Q. Now you have been living on the coast for a considerable length of time have you not?

A. Yes sir.

Q. You know this territory that is just south of this shore line here don't you? The marshes?

A. Why I have sailed around it there to some extent. I can not say that I am familiar with it sir.

Q. What were they commonly called Mr. Hewes. Common ordinary parlance. When the mosquitoes came from that section what did you generally call that section of the country?

A. Why I have heard them speak of the mosquitoes from the Louisiana marshes. From the marshes.

By Col. ZACHARIE:

Q. Mr. Hewes this suit was filed in October; the bill in this suit was filed in October 1902. Did you or did you not hear prior to the filing of this bill threats of arrest made by the officers of Louisiana, against Mississippi fishermen fishing in this disputed territory?

A. I can not say Colonel that I did, unless I had read something in the Times-Democrat or Picayune about it. Nothing outside of that.

Q. You never heard it from the fishermen or by common report?

A. No sir, nothing outside of these papers at all.

Q. Over the territory going westward were any of these lands assessed for taxes in the State of Mississippi or any taxes collected from it as a part of Harrison county?

A. I think not sir.

Q. I think you stated in cross examination to Mr. Dymond that you had never read the clause relating to the southern boundary of the Mississippi shore?

A. Of Louisiana?

Q. No of Mississippi. Either under the constitution or act admitting the State of Mississippi into the Union?

A. No sir, I think I have read it. It was in reference to Louisiana that he asked me. It was in reference to the southern boundary of Louisiana. In Mississippi I think that the southern boundary is fixed at 18 miles.

Q. Now that article in your constitution of your State and also in the act admitting the State of Mississippi into the Union says starting at a point near Pascagoula and then going westwardly including all islands within six leagues. You did not understand, and was it the general understanding or not, that all along this
1714 shore that the jurisdiction of Mississippi extends 18 miles out into the Gulf or sound except where there are islands?

A. I think sir the general acceptation of that is by the people that the jurisdiction of the State of Mississippi extends out 18 miles into the sound from the sea shore.

Q. That after a consultation of the constitution of the State of

ssissippi and the act admitting the State of Mississippi into the ion?
A. Yes sir.
Q. Then according to your testimony you simply say that you ard of no threats of arrest on the part of the Louisiana authorities ere during your term of office before the institution of this suit cept what you saw in the New Orleans papers?
A. Yes sir, exactly so.
Q. But you did see that in the New Orleans papers?
A. I won't say that I saw that prior to the institution of this suit, t I remember reading considerable about it about the time of the titution of the suit, or either prior or subsequent to it I won't say ich.

Redirect examination.

By Gen. McCLURG:

Q. Mr. Dymond asked you Mr. Hewes about land taxes in the sputed territory. You states that you never collected any. Do u know whether or not the marine tax or taxes on the crafts or its of different kinds has been collected by your county and by e State for fishing out there?
A. I could not tell you anything about that.
Q. You never had anything to do with that?
A. No sir.
Q. Nothing to do with the collection of these taxes?
A. Nothing at all.
Q. He also asked you about any knowledge you might have as to y armed conflict after you went — of the office. Did I under- nd you to say that you went out of the office on the 1st Monday January 1900?
A. Yes sir.
Q. The meeting to which I call your attention called by the citi- ns of Louisiana and presided over by the governor was on the th day of January 1901, about a year after you went out of office. there had been such a conflict between the citizens of Louisiana d those of Mississippi, as to threaten an armed conflict would you kely have known it?
A. I think I would sir.
Q. Where did you live from 1900 to 1901?
A. Well after the 1st of May 1900 until 1901 I was living in Gulf- rt.
Q. Who was your successor in the office of sheriff?
A. Mr. A. J. Ramsey.
Q. You said some thing about the mosquitoes from the Louisiana arshes. Did you ever hear of the Grand marsh?
A. Yes sir, I have heard of that too.
Q. Where is the Grand marsh?
A. I don't know sir. I could not tell you where that is.

Q. What direction is it from the Mississippi shore?
A. Southwest I think. I see it on the map over there.
Q. In the neighborhood of what you heard called the Louisiana marshes?
A. Yes sir, in the same neighborhood. The map shows it is southwest out here.

A. J. RAMSEY, a witness introduced on behalf of the State of Mississippi, being duly sworn testified as follows to-wit:

By Gen. McCLURG:

Q. What is your name?
1715 A. A. J. Ramsey.
Q. Where do you reside Mr. Ramsey?
A. Mississippi City.
Q. That is in Harrison county I believe?
A. It is in Harrison county, yes sir.
Q. How long have you lived in Harrison county?
A. Well I was born and raised in that county.
Q. How old are you?
A. I am 64 years old.
Q. Have you ever held any offices or official positions in Harrison county and if so I wish you would tell us what they were?
A. Yes sir, I held the office of sheriff. I was elected in 1871 and went out in 1878, and then I was elected to the legislature and served one term in 1878, and within the last four years, 1899 I ran again for the office or sheriff and was elected again. Of course I went out the 1st of this last Jnauary.
Q. What office were you elected to then?
A. I was elected circuit clerk then and I am holding that office now.
Q. You were the sheriff of Harrison county from the 1st Monday in January 1900 until the 1st Monday in January 1904?
A. 1904, yes sir.
Q. In this suit of The State of Louisiana *vs.* The State of Mississippi respecting the water boundary line between these two States, the bill of complaint on the part of the State of Louisiana states substantially, that because of a difference in the laws of the two States regulating the oyster industry and providing penalties for a violation of these laws, much confusion had resulted up to the time of filing this bill in October 1902, October 27th 1902, and that there was a demand in the State of Louisiana to have the boundary line dividing the States marked. That this difference between the citizens of the State of Louisiana and the citizens of the State of Mississippi had reached such a condition or crisis, that to avoid an armed conflict between the sheriff and officers of the parish of St. Bernard, Louisiana, and the sheriff and officers of Harrison county, Mississippi, a public meeting was called by certain citizens of

Louisiana and presided over by her governor, and a commission was appointed to consider the determination of the water boundary line between the two States and to arrange for its easy location and identification, and the governor of Mississippi was requested to appoint a similar commission. Now what I want to direct your attention to is whether during your incumbency from the 1st Monday of January 1900 to the 1st Monday of January, 1904, you knew of any threatened armed conflict, or any crisis impending between the officers of St. Bernard parish Louisiana and the sheriff and officers of Harrison county, Mississippi?

A. No sir, I never. I don't remember to have ever heard of it.

Q. Had you any information of any trouble over the State line before the filing of this bill?

A. None in the world.

Q. Had you arrested anybody for violating the Louisiana laws or the Mississippi laws?

A. No sir.

Q. Did you ever know of any warrants being issued in this State for a violation of those laws?

A. I don't think there were ever any placed in my hands.

Q. Have you any sort of information of any kind whatever of the condition which I have stated to you, and I state it from the bill of complaint filed by Louisiana in this matter?

A. No sir.

Q. It is further stated in this bill of complaint, Mr. Ramsey, that the true boundary line between these two States is what is marked on the map as the sailing line, and what is termed in this bill of complaint the deep water channel, that comes out of the eastern mouth of Pearl river, north of Half Moon island, through the Mississippi sound to Cat Island pass northeast of Isle à Pitre into the gulf of Mexico, northeast of Chandeleur islands. Have you any knowledge or information whatever as to the sailing channel or deep water channel being the true dividing line between these two States?

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A. I never heard of it.

Q. Tell us what you may know of the south boundary of Harrison county and the State of Mississippi?

A. Well it reads that it is 18 miles from the shore. The southern boundary of Mississippi.

Q. You mean both of the county and State?

A. Yes sir.

Q. How long would you say that has been recognized as the southern boundary line of Harrison county and the State of Mississippi?

A. Well I don't remember. I have read it you know.

Q. Sir?

A. I don't remember how long, but I have always heard that you know. I think that the law says so. That is my impression at least.

Q. How long have the people of Harrison county so far as you are able to speak regarded that as the southern boundary line?

A. I suppose ever since it has been a State. I don't know any thing to the contrary.

Q. Were you ever a member of the board of supervisors of Harrison county?

A. No sir.

Q. Of the board of health?

A. No sir.

Q. Can you say whether or not there have been any revenues collected for crafts of different kinds, for taking oysters and fishing in the waters in front of Harrison county?

A. You mean whether the license was issued?

Q. Yes sir?

A. Yes sir, I have a record of that in my office. I think it was about three years. I disremember now. 1901, 1902 and 1903 I think.

Q. How far from the shore did these boats take oysters under that license?

A. Well I could not tell you that. I don't know.

Q. You could not state of your own knowledge?

A. No sir.

Q. Ship island is to the front of Harrison county is it not?

A. Yes sir, to the south.

Q. How far?

A. I think that it is about 12 miles from the shore. I believe it is about that.

Q. Do the officers of Harrison county exercise jurisdiction over Ship island?

A. Well they do I think. When the crime is committed on the shore and the parties go to Ship island, he has a right to follow them up and take them out there.

Q. How is that?

A. When a crime is committed on the shore—it belongs to the Government I think.

Q. Well there is a military reservation on the western end of the island?

A. Yes sir, I know I started out there to make an arrest once, but the fellow had left is the reason I did not get him.

Q. You felt that you had the right to serve the process of the State on this island?

A. Yes sir, the crime was committed on the shore here.

Q. Do you know where Cat island is?

A. Well I see it every day.

Q. Is it to the front of Hancock or Harrison county?

A. No sir, it is in Harrison county.

Q. How far is it from the shore?

A. I don't know the distance. I think it is six or eight miles from Pass Christian. I believe that is the nearest point.

Cross-examination.

By Col. ZACHARIE:

Q. You stated Mr. Ramsey that you never heard any ap-
17 prehension of an armed conflict between the officers of the parish of St. Bernard in Louisiana and the officers of the unty of Harrison. Did you not from time to time hear reports om the fishermen that they were threatened with arrest by the of-ers of St. Bernard parish for fishing in these waters?
A. I never. I don't remember to have heard of it sir.
Q. Do you know that territory that lies west of Isle à Pitre? Do u know where Isle à Pitre is?
A. Isle à Pitre is *sorter* south of Cat island I think.
Q. It is to the south and westward. That territory that lies to e westward there. What is that territory generally known nongst the people along this Mississippi coast as. Would you call at the Louisiana marshes?
A. No sir, I don't know that it is.
Q. Have you not frequently heard it called that?
A. I have always heard it called Isle à Pitre.
Q. I mean the territory that is west of Isle à Pitre?
A. I have heard talk of the Louisiana marshes but my impres-on was that it was out west of there.
Q. I mean west of Isle à Pitre?
A. Maybe so. I don't know.
Q. Whenever you have a wind from the southwest don't you have squitoes with it from the marshes?
A. We have plenty of mosquitoes whenever we have a southwest nd. Not a south wind though.
Q. Do you know as sheriff, whether any of this land to the west Isle à Pitre has ever been assessed on your assessment rolls for xes?
A. I don't think it has. Cat island has.
Q. That is as far westward as lands have been assessed as belong-g to Mississippi and the taxes collected?
A. I think so. That is belonging to Harrison county.
Q. Have you ever read the constitution of Mississippi in regard its boundaries or the act admitting the State?
A. Yes sir, I have read it.
Q. Do not you remember that the southern boundary is described proceeding from a point near Pascagoula westwardly to the mouth East Pearl river including all the islands within six leagues of e shore. Now do you understand that and is it generally under-od all along the Mississippi coast that the boundary extends six gues out, or is that only the case when the islands are within six gues?
A. The waters go with the islands I believe.
Q. Suppose there are no islands at the particular point on the st. Do you contend then that it extends six leagues?

A. The location of the islands you say within six leagues?
Q. I am speaking of the open water where there are no islands?
A. I don't remember about that. I have read that I know.
Q. You have never heard during your incumbency in the sheriff's office of any trouble being threatened between the Louisiana officers and the Mississippi fishermen fishing in this disputed territory?
A. I don't remember any. Well here since they have gotton up this law I might have heard something once.
Q. How long ago did you hear this?
A. It has been within the last year I think. Some trouble.
Q. Well was it not more than a year ago, because in so far as the matter exists now there is an agreement between the two States. But prior to this agreement did you not hear of trouble brewing between them?
A. I don't remember anything. I know I never had any papers.

By Gen. McCLURG:

Q. What agreement have you reference to?

By Col. ZACHARIE:

A. I said the agreement between the oyster commissions of the two States.

By Mr. McCLURG: It is denied by Mississippi's counsel
1718 that that State is bound by that agreement. It never authorized it and never ratified it.

Redirect examination.

By Gen. McCLURG:

Q. Mr. Ramsey, I have here a certified copy made by A. J. Ramsey, clerk of the circuit court of Harrison county, dated at Gulfport on the 23rd day of June, 1904, which purports to be a copy of the record of oyster boat license, account of amounts received, F. S. Hewes, clerk of the circuit court in account with the oyster fund Harrison county Mississippi, running out sums from April 12th, 1892, to April 6th 1894. Are you the A. J. Ramsey that made this certificate?
A. Yes sir.
Q. Who was F. S. Hewes?
A. He was the circuit clerk.
Q. Before you. You succeeded him?
A. Yes sir. I succeeded him.
Q. This was taken from the official records of the office of the circuit clerks?
A. Yes sir, kept by him.
Q. And under the law at that time he was *ex-officio* collector of these taxes?
A. Yes sir.

Counsel for the State of Mississippi here offers in evidence and introduces as Mississippi Document No. 41, on the part of the State of Mississippi a certified copy of the record of oyster boat licenses for Harrison county from September 12th, 1892 to April 6th, 1894, and now hands the counsel for the State of Louisiana a true copy of said document.

The commission here adjourned until 10 o'clock tomorrow morning.

BAY ST. LOUIS, MISSISSIPPI, August 9th, 1904.

The commission met this morning at ten o'clock pursuant to adjournment on yesterday evening.

There were present Hon. William D. Bullard, commissioner on the part of the State of Mississippi. Hon. Monroe McClurg, counsel on the part of the State of Mississippi, and Col. F. C. Zacharie, and Mr. John Dymond, associate counsel on the part of the State of Louisiana. F. M. Peyton, stenographer.

F. S. HEWES, a witness introduced on the part of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLURG:

Q. Mr. Howes, on yesterday Mr. A. J. Ramsey, clerk of the circuit court of Harrison county filed as Document No. 41 with this commission a certified copy of the official record of oyster boat licenses issued by you as circuit clerk and *ex-officio* collector of these licenses covering from 1892 to 1894. I wish you would please look
1719 at this document which I have mentioned and say whether it is a correct transcript from the official record made by you?

A. Well sir, I keep such a transcript as this.

Q. That is a correct transcript is it?

A. I turned over the books to Mr. Ramsey who was my successor. I suppose that is a correct copy of it. I can not testify to that.

Q. Where do you live, Mr. Hewes?

A. I live in Gulfport, Harrison county.

Q. How old are you?

A. Well sir I am in my 75th year.

Q. How long have you lived in Harrison county?

A. Off and on I suppose since I was ten years old. My father had a place over there when I was ten years old. I have been absent of course at times.

Q. Do you hold any official position in the county now?

A. Yes sir, I am the chancery clerk.

Q. Have you held any other office in the county?

A. I have held the office of circuit clerk also.

Q. How long have you been the chancery clerk?

A. Well sir I am in my 29th year. I was circuit and chancery clerk for 28 years.

Q. You are now on the new term of the chancery clerk?

—. ——.

Q. The offices have been separated at the last election?

A. Yes sir, they were separated at the last election.

Q. Are you the official custodian of the records of the chancery court of Harrison county?

A. Yes sir.

Q. And I believe as such you are the *ex-officio* clerk of the board of supervisors of that county?

A. Yes sir.

Q. The chancery clerk is *ex-officio* clerk of the board of supervisors?

A. Yes sir.

Counsel for Mississippi here introduced and offers in evidence on the part of the State of Mississippi a certified copy of the ordinances enacted by the board of supervisors of Jackson county at the August term, 1893, against the dredging of oysters in the waters of said county, a true copy being now handed to counsel for Louisiana, and the one filed being Mississippi Document No. 42.

And also a certified copy of the ordinances passed by the board of supervisors of Jackson county with reference to taking fish and oysters in public oyster reefs of the county, enacted by the board of supervisors of that county on the 7th day of November, 1892, a true copy of which is also handed to the counsel for the State of Louisiana, said document being marked Mississippi Document No. 43, and which is introduced and filed as evidence on the part of the State of Mississippi in this case.

And also a certified copy of the ordinance passed by the board of supervisors of Jackson county on the 2nd day of June, 1885, marked Document No. 44, and which is now offered and introduced in evidence on the part of the State of Mississippi, a true copy being handed to the counsel for the State of Louisiana.

And also as Mississippi Document No. 45, being a certified copy from the minutes of the board of supervisors of Jackson county, dated September special term 1884, an ordinance respecting a petition by the citizens of said county, asking for the protection and preservation of oysters, fish, shrimp, game, etc., which is now here offered and introduced in evidence, a true copy of same being now handed to counsel for the State of Louisiana.

1720 And also Mississippi Document No. 46 being the Rules and regulations of the board of health of Harrison county, Mississippi for the year 1877, a certified copy being now offered and filed in evidence, a true copy of which is now handed to the counsel for the State of Louisiana.

And also Mississippi Document No. 47, being a certified copy of the quarantine physicians' report of Harrison county Mississippi, dated July 22nd, 1878, and which is now offered and introduced in evidence and filed as a part of the testimony on behalf of the State

of Mississippi, a true copy of the same being now handed to the counsel for the State of Louisiana.

To which said offer by the State of Mississippi of Documents No. 40, 41, 42, 43, 44, 45, 46 and 47, counsel for the State of Louisiana excepts and for cause of exception state that the said documents are *res-inter-alios-acta*, and have no reference whatever to the area in dispute in this case, and are therefore irrelevant and inadmissible in evidence.

Q. Mr. Hewes you have stated that you are the chancery clerk and *ex-officio* clerk of the board of supervisors?

A. Yes sir.

Q. Of Harrison county?

A. Yes sir.

Q. I will ask you to examine these certificates made by you or purporting to be made by you, and see if you are the F. S. Hewes that certified to these copies?

A. Yes sir.

Q. Documents 46 and 47?

A. Yes sir, those are mine I know.

Q. I believe you have testified about the record of the licenses?

A. Yes sir.

Q. Now state, Mr. Hewes if you can where the boats which you licenses from 1892 to 1894, as shown by Mississippi Document No. 41, exercised the privilege that you granted them?

A. That is impossible for me to say where they went to. I issued it for Harrison county. It is impossible for me to say where these boats went. I issued the license for Harrison county, but where they went I could not tell you.

Q. How far does Harrison county extend from the shore line?

Q. As I understand it by the constitution and laws it extends out 18 miles from the land.

Q. Did you so understand it at the time that you issued those licenses?

A. I did not understand anything else of course. Of course I followed the laws of the State. I had no personal knowledge.

Q. When was the first time if you can recollect that you ever heard any dispute of the State line between Louisiana and Mississippi?

A. Well I could not call the years. It is not many years back though.

Q. Before or since the filing of the bill in this case?

A. Oh, I expect I heard of it before the filing of this bill.

Q. That bill was filed on the 27th of October 1902?

A. Well sir I suppose that I heard that there was such a contest before the filing of the bill. I suppose that I heard that the contest would be made before the filing of the bill.

Q. Would you undertake to say how long before?

A. No sir, I can not recollect that General.

Q. Can you say whether it was shortly before, or some time before this suit was brought?

A. Well it was some time before. I have no idea of the time. I merely heard the talk of it of course.

Q. Well just as near as you can approximate it about how long ago would you say you first heard about this controversy?

1721 A. It is impossible for me to fix any date, because I don't recollect any thing about it. It is impossible for me to fix the date. I heard it rumored and talked about, but when I don't recollect. Not many years ago though.

Q. Well I understand you to say that you have lived in Harrison county ever since you were about ten years old?

A. Off and on, I went away at times, during the war and to Texas and California and so on. This was my home here and my father and family lived here.

Q. You have stated what has been considered the boundary line of the county. Now do you understand that that has been the boundary line of the State also?

A. I understand so from the constitution of the State and laws of the State.

Cross-examination.

By Mr. DYMOND:

Q. Mr. Hewes, when you spoke of rumors in regard to this contest concerning the boundary, could you recollect from what source those rumors first came to you. Was it not from the oyster fishermen?

A. No sir, I think it was merely from publications that I saw in the papers.

Q. In the papers?

A. Yes sir.

Q. Were you brought in close contact with the fishermen in 1898?

A. No sir, except in officially issuing these licenses, I was not in contact with them at all.

Q. Did you hear any thing about the police jury of the parish of St. Bernard, which corresponds with your board of supervisors, had sent out an expedition to prevent the Mississipians from fishing in the parish of St. Bernard?

A. I read it in the papers of such an expedition.

Q. At what time?

A. I don't recollect the date sir. I am a poor hand on dates.

Q. If you can recollect some such expedition, would not some comment be made in the local papers when these people returned from that section?

A. Well *there* was probably so, but I don't recollect any thing about it.

Q. Your memory is not clear on these things?

A. No sir, I never paid much attention to these things. I would read them and that is all. I had no interest in it personally.

By Col. ZACHARIE:

Q. Mr. Howes, you say that you always understood under the laws
l constitution of the State of Mississippi that the boundary line
ended 18 miles south of the shore, the southern shore of Missis-
pi?

A. I understood it begun at the east end of the State and run
tward, including all of the islands within 18 miles of the shore,
ix leagues.

Q. This is the language on that point taken from the cross bill
hence due south to the gulf of Mexico, thence westwardly in-
ding all of the islands within six leagues from the shore," and
you interpret it as the whole line extended out six leagues from
shore, or did you interpret it only as including such islands as
within six leagues?

A. I always interpreted it as extending due south six leagues all
ng the shore.

Q. Did you understand it to include the portion of the shore
rked upon the maps as the parish of St. Bernard in the State of
isiana?

A. I really don't know any thing about that map at all. I never
examined it.

2 Q. You know the peninsula or archipelago that juts out
some nine or ten miles south of Mississippi there don't you?

A. You mean including Isle à Pitre?

Q. Yes sir?

A. Yes sir, I have been out there.

Q. What has that territory been commonly known as?

A. Well sir, it has been known as the Louisiana marsh, and I
e heard it called the Grand marsh.

Q. Did you ever hear any contention previous to this suit that
portion of this particular territory was embraced within the
te of Mississippi?

A. I never heard any discussion about it previous to this suit at
The lines were not known definitely you know.

Q. Now in regard to the islands. Were you aware of the fact
t under the act admitting the State of Louisiana into the Union,
State was given all islands within three leagues of her coast?

A. Colonel, I don't recollect that law at all. I don't think that I
r examined it.

Q. Now of these licenses about which you have testified. Those
nses were only issued from the home port of the vessel were not
y? Where they hailed from?

A. No sir, there were some vessels I think that hailed from Mo-
that have license to fish there.

Q. Then it was to take fish out of the waters of Harrison county
ou understood it?

A. Yes sir.

Redirect examination.

By Gen. McCLURG:

Q. Mr. Dymond, asked you about this expedition sent out from St. Bernard parish. You said that you had some recollection of hearing of it?

A. I read about it.

Q. Well can you say whether that was an expedition that was sent out after the institution of this suit or before it?

A. I could not tell you General. I don't recollect any thing about it.

JOSEPH F. CAZENEUVE, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. McCLURG:

Q. Where do you live?

A. Bay St. Louis.

Q. How long have you lived here?

A. 48 years.

Q. How old are you?

A. 48.

Q. Have you ever held any office in the State of Mississippi in this county?

A. Yes sir.

Q. Hancock county. What place?

A. I was deputy sheriff, and sheriff and tax collector.

Q. When were you deputy sheriff first?

A. I began on January 22nd, 1880.

Q. How long did you serve as deputy?

A. I served nearly four years.

Q. When were you elected sheriff?

A. In the fall of 1883 at the election.

Q. And you went into office?

1723 A. In 1884.

Q. The first of January 1884?

A. Yes sir.

Q. And you served how long?

A. I held continuously until the late change.—I went out in 1896, January 1st, and then I was out four years, and went in four years, and come out last January again.

Q. You went out January 1st?

A. January 1st, 1896, and went back on the 1st Monday of January 1900.

Q. And you served until the first Monday of January 1904?

A. Yes sir.

Q. So then you were deputy sheriff when?

A. From January 22nd, 1880. I was in the sheriff's office then until the 1st of January 1904, with the exception of four years.

Q. And in the interim you lived here in Bay St. Louis?

A. Yes sir, here in Bay St. Louis.

Q. It is alleged in this bill of complaint filed by Louisiana against the State of Mississippi—filed on October 27th, 1902, by the State of Louisiana against the State of Mississippi, that because of differences in the laws of Louisiana and Mississippi that there had been contentions between the citizens of the two States and that at the time of the filing of this bill, as stated in the 17th paragraph of the bill, that affairs had reached such a crisis that in order to avoid an armed conflict between the sheriff and officers of the parish of St. Bernard in the State of Louisiana, and the sheriff and officers of the county of Harrison in the State of Mississippi, a meeting of the citizens of the State of Louisiana was called by the governor of that State, when certain resolutions were passed at that meeting by the Louisiana citizens, to consider and determine of the water boundary line between the two States and arrange for its easy location and identification by a proper system of buoys, and they also appointed five commissioners and requested Governor Longino of Mississippi to appoint a like number to carry out the objects of that resolution they had passed. I call your attention to that with a view of asking you if at any time before the 27th of October 1901 you know of any threatened armed conflict between the sheriff and officers of the parish of St. Bernard and the sheriff and officers of Harrison county, Mississippi?

A. I never heard of it sir.

Q. Was there any trouble duing the time you were sheriff of Hancock county?

A. Never sir.

Q. You never heard of any thing to that effect?

A. No sir, I never heard it, and I never was requested to see about any thing.

Q. Can you say whether there has ever been any disturbance by the officers of Hancock county or any of the officers of St. Bernard parish while you were in there, or any other parish?

A. None during my term of office. From 1880 to 1904, with the exception of four years. That four years I can not answer for, but the rest I can.

Q. Do you know whether there was any dispute before the bringing of this suit as to the boundary line or not?

A. No sir, I saw the bringing of the suit is all. I never heard of any before.

Q. During your incumbency of the office of sheriff and as deputy sheriff how far from the shore here to the southward did the officers of this county and the State exercise jurisdiction or State sovereignty?

A. Well I never had to go very far. I had gone out on the sound here, but I don't think I ever went more than a half a mile or a mile probably. I have gone out there and taken men off of vessels but never any further than that.

Q. Have you any information or knowledge as to what w
garded as the limit of the county and State in the water?

1724 Counsel for the State of Louisiana objects as the w
has already disqualified himself to answer the question
he therefore excepts to the question.

A. Well I did not know where the line was only I heard w
it was. Of my own knowledge I did not know. I never had
occasion to go to the limit.

Q. You never heard the State line discussed before the brin
of this suit?

A. No sir.

Cross-examination.

By Mr. DYMOND:

Q. Were you sheriff in 1898?

A. No sir.

Q. Were you deputy at that time?

A. No sir, I was out altogether. I left on the 1st Monday of J
uary 1896, and did not come back until the 1st Monday in Janu
1900.

Q. Therefore in 1897, 1898, and 1899 you were not in the office
sheriff either as sheriff or deputy?

A. No sir, Mr. Ladnier was the sheriff then.

Q. Were you acquainted with Judge Neville over here?

A. Judge James H. Neville, yes sir.

Q. You knew him to be the district attorney of this district?

A. He was district attorney while I was sheriff.

Q. Was he district attorney in 1898?

A. I don't remember sir whether he was or not. I don't know
I think he was when I came out of office. I am not sure. I think
he served as long as I was in office the first time and then he re
signed. I don't think I served in my first term under Neville.
am not sure. Yes sir, I served under him in my first term.

Q. In 1896?

A. Neville was then district attorney. I went out on the 1st
Monday in January 1896. I don't remember whether he was then
or not, but my recollection is I think as long as I was in the office
there the first term he was there. That is including the year 1895.

Q. He had been district attorney previously had not he?

A. Yes sir.

Q. For how long a time?

A. I don't remember that, but it must have been; I don't know,
he might have been district attorney two terms. Eight years I
think.

Q. You think that he was district attorney eight years?

A. That is my impression sir.

Q. He was known among the people as the district attorney?

A. Oh yes sir.

Q. He had that reputation?

A. Yes sir.

Q. Did you know or ever hear that he had made a visit to the parish of St. Bernard to see the district attorney of the parish of St. Bernard of the State of Louisiana in regard to the stopping by the officers of St. Bernard parish of the fishermen, Mississippi fishermen, from fishing in the parish of St. Bernard?

A. No sir, I never heard of that.

Q. He never reported that fact to you?

A. No sir.

Q. You would not be prepared to dispute the fact that he had gone there?

A. I don't know any thing about that.

Q. And had conferred with the district attorney?

A. No sir, I could not say any thing about that. I know that he never told me any thing about it.

Q. If any thing of that sort occurred in 1898 you were not 1725 then the sheriff of this county?

A. No sir.

By Col. ZACHARIE:

Q. You have stated that you never heard of any dispute about this boundary line until after the institution of this suit. Had you not heard of the appointment of the two boundary commissions. One on the part of the State of Louisiana and one on the part of the State of Mississippi to try and adjust this dispute?

A. I heard of that. What I mean is this was all about the same thing. I heard about that yes sir.

Q. Well according to the record the meeting of these two boundary commissions took place on January 19th 1901. Now this bill in equity was filed in this suit in October 1902?

A. Yes sir.

Q. Now these two boundary commissions met about twenty months before the institution of this suit?

A. Yes sir.

Q. Then you are mistaken in saying that you never heard of this dispute?

A. What I mean is I did not hear anything of it until this commission was on; until it was appointed. I heard that of course like every other citizen did, and then when I answered Mr. McClurg I mean that. Of course I heard that like everybody else did. That is the first I heard.

Q. You never knew of any threats on the part of the officers of St. Bernard parish of the State of Louisiana to arrest Mississippi fishermen fishing in these waters?

A. No sir, I did not. If they did I never heard of it. Of course I don't say that was not done you know, but if it was I did not hear of it.

Q. What is the territory extending westwardly from Isle à Pitre commonly called by the people along this Mississippi shore. Extending westwardly from Isle à Pitre. Was not that called the Louisiana marshes generally?

A. Well I don't know where the line is. I don't know that I have ever been to Isle à Pitre.

Q. I am now speaking of the peninsular or archipelago that extends from Isle à Pitre, that is the island just west of Cat island, and then extending westwardly—is that territory not known as the Louisiana marshes?

A. I don't know sir. I could not say that. I have heard a good deal said about Louisiana marshes, but where it starts I don't know. I don't know whether it is from Isle à Pitre or where. I have heard a good deal said about Louisiana marshes but where it starts I could not tell you.

Q. Was it not commonly said by the fishermen on this coast that they would get their oysters from the Louisiana marshes?

A. Well not all, no sir. Because they get lots of them out there.

Q. Did you not hear them say that?

A. I have heard some of them say they have gone to the Louisiana marshes yes sir. I think I have heard that.

By Mr. DYMOND:

Q. Captain, is it not, as a matter of fact, since the creation of the Oyster Commission of Mississippi in January 1902; that that was the first time that the State of Mississippi gave any official recognition or control of the oyster industry to a body specially designed and intended to look after the oyster industry?

A. Well I never heard of any. I don't remember the year now, but I don't think I remember of any provision before certain acts were passed.

Q. In other words in Mississippi it was very much like it was in Louisiana. Prior to the creation of the oyster commission your counties used to look after that like our parishes looked after it, and in the multitude of other duties the counties had the oyster
1726 industry did not get that supervision it needed, and that it now gets.

A. Oh no sir, it was different than; some times there was a measure. That is they adopted measures by which the oysters were to be sold and things of that kind prior to that.

Q. And there was no supervision of the industry. There were no steps taken to protect the industry or body authorized to enforce it. patrol boats, etc.,?

A. No sir, nothing that I know of.

Q. As a matter of fact there has been more consideration given to the oyster industry by the State of Mississippi since your oyster commission was created than there has been all of the years before, has there not?

A. Yes sir.

Redirect examination.

By Gen. McCLURG:

Q. And more consideration given it since Louisiana has been after it than there was before. More consideration given it since Louisiana has been trying to get it than there has been before. Is that not true?

A. I think so.

Q. Don't you know it is a fact that we have had oyster laws to protect the oysters and fish and so on in this State for at least fifty years?

A. I don't know how long. I know that there was a law here that required a stamp measure from the sheriff and so on.

Q. Those matters of law will show on the books?

A. Yes sir, the books show it. I know that we had one factory here and I had to go down there to see about it several times.

Recross-examination.

By Mr. DYMOND:

Q. Was the oyster law ever enforced before as it is now?

A. No, but it should have been I think. I think we would be better off if it had been. There was a time when every body fished just where they pleased you know.

T. J. LADNER, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. McCLURG:

Q. Where do you reside?

A. Bay St. Louis.

Q. For how long?

A. Well I have been here all of my life.

Q. How old are you Captain?

A. 48.

Q. Did you ever hold any official position in Hancock county, Mississippi?

A. Yes sir, I was sheriff of this county.

Q. Any other position?

A. Well I was an alderman of the city.

Q. When were you sheriff?

A. I was sheriff from 1896 to 1900.

Q. You mean from the 1st Monday of January 1896 to the 1st Monday of January 1900?

1727 A. Yes sir.

Q. During the time of your incumbency of the office of sheriff have you had any information of a threatened armed conflict between the officers of St. Bernard parish Louisiana, and those of

Harrison county Mississippi, or Hancock county or any other officers of Mississippi and Louisiana, and if so, I wish you would please tell us about it?

A. No sir, I have had none.

Q. You have had no such information?

A. No sir.

Q. Well have you had any information to that effect at any other time during your whole life prior to January 1901?

A. No sir.

Q. Or prior to October 27th, 1902, and if so I wish you would please state it?

A. No sir, I have not.

Q. Before the action of the people of Louisiana about January 1901 did you ever hear any dispute about the line between these two States in the waters of the Gulf?

A. Not before that time, no sir.

Cross-examination.

By Mr. DYMOND:

Q. Mr. Ladner you knew Judge Neville did you not?

A. Yes sir.

Q. Was he district attorney when you were sheriff from 1896 to 1900?

A. I think he was when I first came in if I am not mistaken. He resigned afterwards.

Q. He had been district attorney for a number of years previous to that?

A. Yes sir.

Q. What position did he hold if any after that?

A. He was circuit judge.

Q. Circuit judge of what circuit. Of what counties?

A. Harrison, Hancock and Jackson, and the other counties in that district.

Q. That is he was circuit judge of the counties that compose this district. Of the coast counties?

A. Yes sir, and some in the interior too, such as Pearl River county was included in it.

Q. Now did you ever have any occasion to talk to any of the oyster fishermen in 1898 in regard to where they were fishing?

A. No sir, I did not.

Q. Therefore you never heard any of them talk about the fact that they had been excluded or threatened to be excluded from the Louisiana marshes?

A. No sir, not at that time. Not while I was sheriff.

Q. Did you know that Mr. Neville had gone to the State of Louisiana to confer with the district attorney of the parish of St. Bernard with regard to this subject matter?

A. I did not no sir.

Q. As a matter of fact you did not know anything of these facts as they were transpiring at that time did you?

A. No sir, I did not.

Q. Did you know that the State of Louisiana had through the police jury of the parish of St. Bernard created an expedition to go out and expel these unlicensed fishermen from the Louisiana marshes in 1898?

A. No sir, I did not.

Redirect examination.

By Gen. McCLURG:

Q. Captain, it is true, is it not that Judge Neville resigned the office of the district attorney in the spring of 1896, soon after you went into the office of sheriff?

1728 A. Somewhere about that yes sir.

Q. And that Mr. Walter A. White succeeded his as district attorney?

A. He did when he resigned. I don't remember exactly when he resigned.

Q. And then Mr. Neville was a private citizen practicing law at Biloxi until he was appointed circuit judge?

A. Yes sir.

Q. And he was appointed circuit judge in 1902 was not he?

A. I don't remember exactly when it was that he was appointed.

Q. It was about 1902?

A. Yes sir, about that time.

Q. About the latter part of 1901 or 1902?

A. Yes sir, about.

Q. And he had no authority if those dates that we speak of are true, to act as district attorney in 1898?

A. No sir, not if he was not district attorney.

Q. He was not district attorney as a matter of fact in 1898?

A. No sir, I don't think he was.

Q. Nor circuit judge either?

A. Well I don't remember when he was appointed circuit judge.

Q. You don't remember that?

A. No sir.

Q. It was some time about the latter part of 1901 or 1902 that he was appointed?

A. About that time but I could not say positively.

Q. You know nothing about any conversation between him and Mr. Estopinal?

A. Who is he?

Q. He was the district attorney in St. Bernard parish in 1898?

A. No sir, I do not.

Q. And you know nothing of the mass meetings held by the citizens of Louisiana in January 1901? and in Mr. John Dymond, Jr.'s

office in New Orleans where they passed a law and regulations about this matter?

A. Well it strikes me that I did read some thing about it, but I did not take any interest in it.

Q. You have no personal knowledge of it?

A. No personal knowledge, no sir.

Q. And the causes leading after that occasion to the effect that there was a threatened armed conflict between the civil officers of Louisiana and Mississippi. You know nothing of that?

A. No sir.

Q. Judge Neville that you spoke of is now the counsel for the G. & S. I. R. R. Co., and lived at Biloxi?

A. He is counsel for the Gulf and Ship Island Railroad Company and now lives at Gulfport.

Q. He has testified in this case and I wanted to identify him as the same man?

A. Yes sir, he lives at Gulfport.

J. A. BREATH, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Mr. McCLURG:

Q. What is your age?

A. 58.

Q. Where do you reside?

A. Bay St. Louis.

Q. How long have you lived here?

A. Since November 1870.

Q. Have you ever held any official positions in this county?

A. I have been a magistrate since June 1894. Justice of the peace.

Q. Of what district?

A. The fifth district.

Q. Does that include Bay St. Louis?

A. Yes sir, it includes Bay St. Louis.

Q. And Hancock county of course?

A. Yes sir, Hancock county Mississippi.

1729 Q. This is a controversy Mr. Breath between the State of Louisiana and the State of Mississippi, and as a jurisdictional fact it is alleged by Louisiana in her complaint filed on the 27th of October, 1902, that there was a contention between the citizens of the State of Louisiana and the citizens of the State of Mississippi, as to the water boundary line between these two States in the Gulf and Mississippi sound, and that matters had reached such a crisis that there was a threatened armed conflict between the officers of St. Bernard parish Louisiana and the officers of Harrison county Mississippi. You come from near the line of Harrison county?

A. Yes sir.

Q. And nearer to Louisiana than Harrison county. If you have any knowledge or information of any disturbance of any kind between the officers of the two States respecting the boundary between them in the waters of the Gulf I would be glad to have you tell the commission what you know about it.

A. Why, Mr. McClurg, I never heard of any rupture between the officers whatever. I never heard the matter disputed and never knew any thing about it until this discussion came up in the newspapers.

Q. About when did you first notice it in the newspaper?

A. Well I don't recollect now exactly when I first read of the meeting but it is not a great many months ago. It was shortly before they began taking the testimony.

Q. Well during your residence here whether as an officer or as a citizen, have you ever heard of any dispute of any kind. Any controversy of any kind?

A. None whatever sir.

Q. None between the citizens of this State and the State of Louisiana?

A. Never sir, until I saw it published in the newspaper.

Q. Well during your residence here as an official and as a citizen what have you to say as to the jurisdiction and sovereignty of Mississippi south of your shore?

A. Well as I have always understood it it is six leagues. It is about 18 miles from the shore and the south line begins at Pearl river.

Q. The west line you mean?

A. Yes sir, it runs southwardly.

Q. You mean 18 miles out of the mouth of Pearl river southwardly?

A. 18 miles from the shore. Now I would have to refresh my memory by looking at the statute. It is laid down in the statute and I have always considered that is the south boundary line between the two States.

Q. I don't mean the place where it is exactly?

A. Well 18 miles from the shore is what I have always understood it to be.

Q. Well did you ever at any time understand that a certain sailing line out of the mouth of Pearl river to the north of Half Moon island, which I believe is some times called Grand island, and to the south west of Cat island, and to the north east of Chandeleur. Have you at any time heard or know of that being regarded as the true dividing line between Louisiana and Mississippi?

A. Well Mr. McClurg, I don't recollect having given the matter any attention. As I told you, I in fact knew nothing about it until I read it in the newspaper.

Q. You never heard it discussed?

A. I never heard it discussed.

Cross-examination.

By Mr. DYMOND:

Q. Are you still a magistrate?

A. Yes sir, I am.

Q. Well now you stated a moment ago that the first time that you heard of this matter was since the testimony was taken in this case?

A. Since shortly before. I think the stenographer's notes will show that.

1730 Q. What do you call shortly before?

A. Well that is very indefinite. It may have been several weeks or several months. I could not tell you exactly Mr. Dymond.

Q. Well now Judge we started to take testimony in this case in April 1904. The record shows that as early as January 1901, three years and several months ago the governor of the State of Mississippi was called on by the governor of the State of Louisiana to appoint commissioners to see if it was possible to adjust this dispute in regard to the boundary between the two States. Now is it not true that you knew of that dispute and of the appointment of the commissioners at the time they were appointed?

A. I don't recollect any thing about it. I might have glanced over it in the newspapers, just the head lines and not being interested did not read it carefully perhaps.

Q. As I understand it although the governor of the State of Mississippi appointed commissioners on the part of the State of Mississippi on the 9th, of February 1901, you then did not give the matter your special attention at that time?

A. Not at all.

Q. Now Mr. Magistrate, does your office correspond to that of our justices of the peace?

A. It is a justice of the peace yes sir.

Q. As the magistrate in this section you necessarily were more or less acquainted with the laws of the State. On that subject as I understand it you gathered your information as to the territory of the State of Mississippi more from the constitution of the State of Mississippi and perhaps any statutes thereon than from any other source. Is that correct?

A. Yes sir.

Q. Now the act creating the State of Mississippi uses these words in describing the boundary westwardly from the eastern division between Alabama and Mississippi; "Thence westwardly including all islands within six leagues of the shore to the most southerly junction of Pearl river with Lake Borgne." The law doing that. That is what you refer to in your idea that the extent of the territory south was 18 miles. Is that correct?

A. I presume so sir. If the code was here I could refer to that particular section.

Q. Suppose you refer to the constitution. That is in the first part of your code?

A. Yes sir, the constitution is in the first part of the code. I now that the code gives the presumable boundary lines. The Code f 1892.

Q. Now it reads this way. Did I understand you to refer to the oundary division of the county or of the State?

A. Well I was looking more particularly at that time as to the oundary line of the county, because at that time before the Bowers w was passed there was a law against dredging, and I wanted to et the lines as near as possible because I did not wish to have an ffidavit made before me for a person violating the law where perps it was out of my jurisdiction.

Q. Did you refer to the east or west lines or to your south lines?

A. Well the line between Harrison and Hancock and also the ne between Hancock county and the State of Louisiana.

Q. Well is it not a fact Judge, that in that investigation you did ot take up the southern boundary line?

A. Well the north and south line. That would be between Harson and Hancock and the east and west boundary line would —let me see——

Q. The line running east and west would be between Louisiana nd Mississippi?

A. We run the line between Harrison and Hancock counties. I now I have been in the custom house several times and tried to ace it as near as I could from the statute, because I did not wish entertain any affidavits for dredging that were out of my jurisdiction.

31 Q. I understood you to say a moment ago that you consulted the statutes and when you say the statutes you mean e Mississippi statutes?

A. Yes sir, the Mississippi statutes.

Q. You consulted the statutes for the purpose of determining the rth and south line dividing Louisiana on the westward from Missippi?

A. Yes sir.

Q. Which starts at Pearl river?

A. Yes sir.

Q. Then you also consulted the statute to determine the line that vided Harrison from Hancock county?

A. Yes sir.

Q. Is it not a fact that you never looked into what was the east d west line dividing Louisiana from Mississippi on the southrd?

A. You mean out here. (The witness shows as indicated on the ap.)

Q. Yes sir. In order to change the question a little. Are you fond sailing Judge?

A. I have not been over these waters for a good many years.

Q. Then you have not had occasion to sail very much in Mississpi sound have you?

A. No sir, it is over thirty years since I sailed over these waters.

Q. Then you really have not had occasion to measure the distance from the Mississippi coast running south of the shore line. To the north shore line of the Louisiana marshes?

A. No sir, of course I never entertained the idea of measuring it.

Q. Therefore you don't know definitely whether they were out of the 18 miles or not?

A. I could not tell you definitely of course.

Q. Well that being the case you simply presume from the statute do you that you had 18 miles jurisdiction south from the shore did you?

A. Yes sir.

Q. Without knowing where the 18 miles was there?

A. I thought it went south 18 miles.

Q. Well now in looking at the statute you will notice that the statute says, and the constitution and the act of Congress say that Mississippi shall have all the islands within 18 miles. Were you aware of the fact that under the international law that the jurisdiction of a State only extends three miles from her most outlying islands?

A. I have always heard that; that the jurisdiction was within one league.

Q. Then if that is the case how did you conclude that your jurisdiction extended 18 miles south where there were no islands, when the only reference to the jurisdiction in the act of Congress, in your code, and the constitution refers to islands?

A. I don't recollect having said that my jurisdiction extended 18 miles. I think the lines extend 18 miles.

Q. How could the lines extend 18 miles when the international law gives the State but three miles out unless there were islands beyond that. How could it extend 18 miles out when there were no islands?

Q. You are asking me a question that is too deep for me to answer.

Q. Well did you ever make any arrests Judge for violating the law with reference to dredging?

A. I never have.

Q. Well now it is not true that the Mississippi law at present permits the dredging of oysters with sail dredges?

A. Yes sir.

By Mr. McCLURG: Counsel for Mississippi does not see that that is relevant to the question.

By Mr. DYMOND:

Q. Is it not true that just prior to the present law that steam dredges were permitted in Mississippi in water over 14 feet deep?

A. Yes sir over 14 feet.

Redirect examination.

By Gen. McCLURG:

Q. Counsel for Louisiana has just asked you if you did not know that international law only gave the State jurisdiction over
1732 three miles? I do not remember exactly your answer to this deep and learned question, but do you know whether a special act of Congress particularly defining the State line as a statute: that governs independently of international law?

A. I am not conversant with the law Mr. McClurg. You are going too deep for me.

Q. Do you understand that if Congress should say that Mississippi shall have a line marking her southern boundary in the waters of the Gulf 18 miles from her shore, that that declaration by Congress overcomes the general principles of international law and fixes a positive line on that subject?

A. I presume that my opinions would go down in the record and I don't think I can give any on that.

Q. Mr. Dymond has asked you some thing about a meeting of Louisiana citizens in his office in New Orleans January 19th, 1901. You were not present when Mr. Dymond and the St. Bernard oyster men wove a little spider web there and watched for the Mississippi governor were you?

A. No sir, I was not there. I was not invited.

Q. It seems that some body walked into that parlor of that spider. You were not in that crowd were you?

A. No sir, I was not.

Q. And you were not of the oyster commission that assumed to bind the State of Mississippi to what they called a neutral zone. You are not guilty of that crime either are you Squire.

A. No sir, I plead not guilty.

Q. And he has asked you about what you read in the statutes. I believe you stated that you regarded the State line as it is laid down by the code.

A. Yes sir.

Q. We answer Louisiana in our answer and cross bill by saying along the middle of Bay St. Louis southwardly to its entrance; thence due south to the southern boundary of the State of Mississippi in the gulf of Mexico; thence westwardly with said boundary including all islands within six leagues of the shore of the gulf of Mexico and Lake Borgne, to the most eastern junction of Pearl river and Lake Borgne, and to the east mouth of Pearl river; thence up said river by the middle thereof to the point of beginning. As I understand you you consider that statute to mean that we have 18 miles south and including every island within that limit?

A. That is my construction of it, yes sir.

The commission here adjourned for the noon recess. Upon its reassembling at 2 o'clock with the same presences as this morning, the following testimony was taken to-wit:—

PASCAL LUZZI, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows to-wit:—

By Gen. McCLURG:

Q. How old are you sir?
A. I was born in 1855 on the 29th, of April. I believe I will be 49 years old pretty soon.
Q. Where were you born?
A. I was born in Rome Italy. I can not speak the best English language.
Q. How long have you lived in this country?
A. Well I came here in 1872.
Q. That is 32 years ago?
A. Yes sir.
Q. How long have you lived in Hancock county Mississippi?
A. About 30 years.
1733 Q. How long have you lived in Bay St. Louis?
A. In Bay St. Louis 30 years.
Q. What has been your occupation during this 30 years?
A. Oyster man and fishing oysters also. Still today I keep on my little business. Oyster business.
Q. Where have you been fishing oysters during this time?
A. Well over this lake and a part of it in the marsh.
Q. Do you know where Nine Mile bayou is?
A. Yes sir.
Q. Did you ever go through there?
A. Yes sir.
Q. Three Mile bayou?
A. Yes sir.
Q. Turkey bayou?
A. Yes sir.
Q. Johnson bayou?
A. Yes sir.
Q. Creole gap?
A. Yes sir.
Q. Grand pass?
A. Yes sir.
Q. Isle à Pitre?
A. Yes sir.
Q. Sundown island?
A. Yes sir.
Q. Door point?
A. Yes sir.
Q. Karako bay?
A. Yes sir, and Cat Fish pass.
Q. Indian Mound bay?
A. Yes sir.
Q. Are you familiar with all of this country?
A. As far as the Mississippi river. Plumb to the jetties.

Q. These places that I have been asking you about there. Cat Fish pass and Nine Mile bayou and Three Mile bayou and Turkey bayou and Grand pass and Creole gap—how long have you been fishing in this country down there?

A. Well for the last thirty years.

Q. If there has been any change in this country, by which I mean to say any difference in the general appearance and make up of this country now and thirty years ago I would be glad if you would state it?

A. Well there is a little difference, but very little. You could not hardly tell the difference.

Q. Where did you notice the difference?

A. Well the biggest difference and the most of it that I noticed was Three Mile bayou.

Q. What difference did you find there?

A. We find the difference to go in there in Karako bay, the mouth of the bayou is a little larger. There used to be an island in the middle there when I used to go there 25 or 27 years ago, or not quite that long, and that island has disappeared. The mouth of Three Mile bayou has become a little larger. Now Grand pass is about the same.

Q. What about Creole gap?

A. It has increased from the time that they dug it. I helped to dig Creole gap open.

Q. You helped to dig Creole gap?

A. Yes sir.

Q. When?

A. Well that is about 25 or 27 years ago. Creole gap used to be a lagoon. A kind of a bay and we used to go in there and get a harbor sometimes. We used to fish oysters on the outside, and that was an open place and we used to look for a harbor, and the best place that we could find down there was Creole gap. We used to go inside of there. They have called it Creole gap since it was opened. We used to go inside there and drop anchor, and there used to be a little space here going to Bayou Greecue.

Q. Going to the southward?

A. Yes sir, to get to Door point and Jack Williams bay. There was a small space of about 20 or 25 feet that was open to go right through to make a short cut through this place to get to Jack Williams bay, and go to Sundown island. Sundown island is right opposite, and to get into Door point. And we cut it there one day. Me and some of the creole boys from Biloxi. We dug it out with shovels. We dug it to the water line and the next day we could pass through there with a skiff, the current washed it. In about a month afterwards we could go through there with a schooner, when the tide was out. That is what they call Creole gap. Creole gap was not on the chart at that time. I think it is on the chart today.

Q. Well now when you were fishing from Bay St. Louis in these places that we have been talking about what State were you in?

A. We believed that we were in the State of Mississippi.
Q. Why did you believe you were in the State of Mississippi?
A. The old time people told us that we were in the State of Mississippi.
Q. How long have you been understanding it that way?
A. Well that is two years after I was here in Mississippi. We knew that when we were getting down about Bayou Mussel and California bay and American bay that we were in Louisiana at that time of course.
Q. Did you have any idea how many leagues you could go from the Mississippi shore that way?
A. Not really myself, but they said that it was six leagues. I understood that. I don't know how many miles those leagues are. I suppose 16 or 18 miles.

Cross-examination.

By Mr. DYMOND:

Q. What is your business Captain?
A. Oyster fisherman sir.
Q. Where do you have your place of business?
A. Right here sir.
Q. What do you do in the oyster business?
A. In the winter time I am fishing oysters for the cannery.
Q. What factory were you fishing for?
A. I fished for Mr. Dunbar a good many years, and some times I fished for Mr. Lopez. According to where we can get the best prices for the oysters.
Q. What do you do in the summer?
A. I am fishing oysters.
Q. Don't you do any business for yourself. Don't you do a restaurant business?
A. I keep an oyster saloon sir.
Q. Those are the oysters that you sell for raw eating? You sell them for raw eating or what?
A. Raw and cooked.
Q. The character of the oyster that you use for this purpose is not the same character that you use to sell to the factories is it?
A. Well we clean them a little better.
Q. Are they not bigger?
A. We try to get them as large as possible yes sir.
Q. Don't you try to get better oysters and select oysters for your business for that place, than for the cove oysters for the factory?
A. Yes sir, to be sure.
Q. Where did you get these oysters. Where have you been in the habit of getting them?
A. This summer we got the oysters just on the outside of the Telegraph reefs.
Q. That is north of the deep water channel?

. No sir, it is south of the deep water channel. You see we start here and go across by the Telegraph reefs, before we get into the deep water there. We fish oysters with 16 foot tongs. We don't fish with dredges at all.

Q. Well now you say that you visited the Louisiana shes say 25 or 30 years ago?

Yes sir.

Did you have at that time any occasion to put down any stakes y thing of that sort to designate any definite point?

Well no sir.

Well is it or is it not your experience that if you put a down on the shore at a certain point and go back there the year that you will find that it is washed away eight or ten

You could do that, and if the pole was still there you could

Have you had any occasion to do this?

No sir, I have not.

Have you had any occasion to talk to any body about it who one any thing of that sort?

Not in my recollection.

Well now is it not a fact Captain that it is common talk f you were to put a pole down on any particular place it is exposed to the waves and wind, and you were to go ix or eight months afterwards or a year afterwards, you find that the shore line had backed away from the pole by g?

Well not inside of the Louisiana marsh. Not in the marsh. ight find that on the side of the coast.

n the shore line?

n the shore, because the sea there would eat it up. We ly work down there about Mussel or American bay and here you are enclosed on the inside and there is no water ashing to eat the bank. Unless it was an open place like gap or Turkey bayou, and all of these places that are open

ell now in these thirty years of experience of yours did you ve occasion to be out in the marsh during a storm?

es sir, twice.

hat were these years?

was not really a storm, but it was pretty good stiff

hen was this. The first time and the second time?

e first time was in 1887.

hen was the second time?

was not very long afterwards. It was in 1888 or 1891.

ell now on these occasions did the water rise very high?

rose about as high as the prairie.

did not go over the pra-rie then?

A. No sir, just even with the pra-rie.

Q. You have not been there on any occasion when the tide r so high that you could not see the pra-rie grass?

A. No sir.

Q. Well now suppose there was a storm that occurred down th where the water rose as high as the pra-rie grass by the effect of t waves. And the waves would be correspondingly strong. Wou you expect the same results there then as you would on the sho line in the matter of washing away?

A. Why that would have made a little difference I suppos Certainly it would have made a little difference.

Q. Did you ever know of an island called Nigger island just sout of Three Mile bayou?

A. Nigger point.

Q. This is an island that used to be there. Did you ever know of such an island that used to be there?

A. I don't know that name. I might have known the island.

Q. Did you ever know of any island disappearing just southeast as you entered Three Mile bayou?

A. Going to Karako bay. Yes sir, a small island.

Q. No, you don't go into Karako bay there. You go into the southern end of Bayou Boudreaux.

A. Before you get to Three Mile bayou you get to Bayou Boudreaux.

Q. Do you claim that Three Mile bayou enters into Karako bay?

A. Yes sir, enters Karako bay.

1736 Q. What is that body of water that Pirates point is in?

A. What is the depth of the water?

Q. No what is the water called? What is the body of water that Pirates point is in?

A. We call it South bay.

Q. Is it not a fact that Karako bay is out more to the eastward. Suppose you were to draw a line north and south right down through Three Mile bayou. Would not Karako bay be to the eastward of this line?

A. To be sure it is to the east of this line.

Q. What is the body of water that is immediately south of the Three Mile bayou. Three Mile bayou is only a little short thing you know?

A. Three Mile bayou is the entrance to Karako bay.

Q. You call that Karako bay do you?

A. No sir, Three Mile bayou is supposed to be the entrance. To get to Karako bay you can go the direction through Three Mile bayou.

Q. You know it is no bayou there. Three Mile bayou?

A. No sir, it is an open entrance there.

Q. What does it open into. What is the bay that Three Mile bayou enters into?

A. It leads into a pass. It goes straight to Raccoon island. Raccoon island is right opposite.

Q. You are confident that the bay that Three Mile bayou enters into is Karako bay, and Creole bay is not eastward?

A. Yes sir. I never said that it was east.

Q. Here we have a map of it. Is it not a fact that Three Mile bayou enters into Three Mile bay, and Karako bay is way to the eastward. Here is Karako bay here?

A. Well here is Three Mile bayou. When you go through Three Mile bayou and here is Raccoon island around here. Well then you go to the east of Raccoon island and you go in the Karako bay.

Q. You have to pass between Karako bay and Nigger island to get in there?

A. Yes sir, you have to pass right there through there, and that island has disappeared here. It was a very small island, a little bigger than this table, and some times you will see it out of the water yet when the tide is low.

Q. What was the cause of the island disappearing?

A. I suppose it was small and the waves would wash it up. It was there for many many years.

Q. You have fished in Cat Fish pass have you not?

A. Yes sir.

Q. And Drum bay?

A. Yes sir.

Q. When you fished in Drum bay did you consider that you were fishing in Mississippi?

A. Well I don't know sir. I have no idea about that. Whether I was fishing in Mississippi or Louisiana.

Q. When you were fishing in Southwest pass where were you fishing?

A. In Southwest pass we must have been in Louisiana. What Southwest pass do you speak of.

Q. I am speaking of the Southwest pass which is north of Drum bay. You may call it Jack Williams pass?

A. That is Jack Williams pass yes sir.

Q. Where were you when you were fishing there?

A. We expected to be in Mississippi then.

Q. Did you ever fish around Mitchell keys?

A. Yes sir.

Q. Where were you when you were fishing there?

A. I thought we were in Louisiana.

Q. Did you not fish as much in Louisiana as you did in Mississippi?

A. Well I don't know sir that I could tell you that.

Q. What I mean is that you never hesitated about fishing wherever you wanted to. Did you not fish down in American bay?

A. Yes sir, in this time we did not have a license and we used to bring the oysters in Mississippi.

Q. And you fished wherever you pleased?

1737 A. Yes sir, I used to work for the market in New Orleans. I used to take the oysters where ever I could get the best price for them.

Q. Were you fishing oysters in 1898?

A. Yes sir, I have been fishing oysters for thirty years.

Q. Were you out in the marsh at the time there was an expedition sent out by the police jury of the parish of St. Bernard to see about Mississippians fishing out there?

A. I was not out there at that time, no sir.

Q. Did you hear about it?

A. Yes sir, I heard something about it.

Q. You were in Bay St. Louis at that time?

A. Yes sir.

Q. What did you do. Did you go back there any more?

A. Oh yes sir.

Q. Now did you have any trouble about getting the oysters that you wanted for your business out here. Fishing oysters?

A. In this water out here?

Q. Yes sir.

A. No sir, we could get them out there if we wanted to.

Q. You used to get them easier when you went to Louisiana?

A. Not in the summer.

Q. In the winter?

A. Yes sir, because we worked with tongs. We did not fish with dredges. I wish they would break all of that up.

Q. You believe in tongs?

A. Yes sir, like all of the old time people.

Q. You believe that the other people get the most oysters?

A. No sir, not all of the time.

Q. It would be better for your business if there was no restraint and you could go into Louisiana like you used to. It would be better for your business?

A. If they imposed a license I think that they are entitled to it just like any other State.

Q. You would like it fixed so you could go there and fish your oysters and bring them here?

A. Either bring them here or to the market in New Orleans.

Q. There is nothing to keep you from going there and fishing for the New Orleans market?

A. No sir, not to do that. But I want to take them where I will get the best price.

Q. You can fish there now for the New Orleans trade?

A. Yes sir, I have to stay in New Orleans and deliver the goods to Louisiana. If it could be fixed up I would rather fish in Louisiana, because I have a small boat. I can not afford to get a big boat. I have a very small boat.

Q. Did you ever fish in Elephant Point pass?

A. Yes sir.

Q. Where were you then. In what State?

I don't knew. I have no idea. I thought that we were in
iana. It is a long distance from here to Elephant point.
When did you first hear what the boundaries of Mississippi
How far back?
The first time that I heard it was from these old people. I
stood that Mississippi claimed six leagues from the main land.
Hancock county. From the State of Mississippi. From the
land due south six leagues. Now what those six leagues are.
at point the boundary goes I don't know. I could not tell

What made you think that it was due south. That is what
old you?
That is what they told me. Of course as I tell you, I don't
ny thing about it.

By Col. ZACHARIE:

aptain, is it not a fact that that territory starting from Isle à
nd going westward is commonly called by the Mississippi fish-
the Louisiana marshes?
rom Isle à Pitre?
Q. From Isle à Pitre going westward?
A. Not from Isle à Pitre. I never heard that.
Q. Going westward towards the Mississippi river. Is not
led the Louisiana marshes?
understand the Louisiana marshes.
at is what — is generally known amongst the fishermen as
?
s sir.
ell now what is the character to the soil in this territory. Is
low marsh with reeds and grass.
some locations. In some parts of it.
w what would be the effect of a violent northwest storm,
he storm of 1893 which swept across this whole territory
What would be the effect upon that territory. Would it
away a great deal of the surface of the land?
would be a great destruction on the face of the marsh but
on the inside.
uld there not be large portions of this thin surface washed
h the roots of the grass and that spongy soil. Would it
shed away and the water come in there?
sir, not hardly. It would not last long enough to wash

s it not last three or four days?
ir, it only lasted about four or five hours. It covered the
It was on Sunday morning. Three or four days before
wing, but it never covered the marshes.
e you in that storm?
ir, but my boat was in the storm.
were not in it, but you can testify to that?

A. No sir, I was not in it, and I was glad that I was not in

Q. Has not that territory of which you have just been spe
has not that always been regarded as a part of the parish
Bernard and the State of Louisiana?

A. Well we had a little trouble last winter with St. Be
parish. That claims to be St. Bernard parish. I don't know

Q. I mean from a long time back have not the fisherme
people generally regarded that territory as being a part of the
of St. Bernard in the State of Louisiana?

A. It was only lately that I heard of St. Bernard parish
It was only last winter that I learned that it was St. Bernard p
Of course I am not an educated man.

Q. And your whole idea about the boundary of Mississipp
been derived from talk about its being; running six leagues
the main shore?

A. From the main land of Mississippi.

Q. You never knew or heard it pointed out that under the
admitting the State of Louisiana into the Union that her juris
tion extended three leagues from her coast?

A. No sir, not as to my recollection.

Q. Do you know the Malheureux islands?

A. Yes sir, the Malheureux islands, yes sir.

Q. How far are they distant from the coast of this disputed te
tory?

A. Well I don't know sir. I know the claims. That they show
me last winter that the edge of the marsh was to be the *mutual*
ritory. The edge of the marsh.

Q. That is in regard to the agreement that was made between t
two commissions?

A. Now Malheureux island and Grassy island, there are two islan
there close together. They are down on the other *isle* of Gra
island, what they call Half Moon, or what is called Grand islan
and the distance from the edge of the marsh and Petit pass I su
pose it is two and a half or three miles.

Q. The first island?

A. From Petit pass to the edge of the marsh, which they clai
to be the Louisiana marsh. I don't know what the disputed terri
tory is now. I could not really tell you.

Q. Well all of these islands are south of the main deep wate
channel are they not?

A. Yes sir.

Q. The deep water channel is close—coming from the mouth of
East Pearl river out to Cat island, is close to the Mississippi
1739 shore until it branches off to the eastward and southward.

A. It is close to Petit pass. It is closer to Petit pass than it
is to Grand island.

Q. I am speaking of the deep water channel which runs north of
Half Moon island where the largest vessels come in there to get

lumber and so on. The channel runs north of these islands of which you speak close to the Mississippi shore does it not?

A. Yes sir.

Q. The rest of this sound is pretty shallow water is it not, and is used by small vessels?

A. Yes sir.

Q. The water all through there is salt like the water of the gulf of Mexico?

A. Where is that?

Q. South of Pearl river and north of this disputed territory?

A. Some times it is salt, and some times it is fresh.

Q. It is always more or less salt is it not?

A. No sir, it is more or less fresh.

Q. Do you mean that it is ever fresh enough to drink?

A. Yes sir, and fresh enough to kill oysters too some times.

Q. You mean when there is a great freshet from the river?

A. Yes sir, or a heavy rain. Where it will rain for a day or so, Pearl river drains enough water out to kill the oysters here on my bedding ground.

Q. That is also because you get the same drain out of Wolf river don't you?

A. Wolf river does not drain out of there. Jordan river does We hardly ever get that water. It drains right on out.

Q. The Mississippi sound is an arm or a branch of the gulf of Mexico, is not it?

A. I suppose it is. The Gulf is the deepest water.

Redirect examination.

By Gen. McCLURG:

Q. What is this island this way to the eastward?

A. This is Cat island.

Q. How far is this here from Bay St. Louis?

A. It is supposed to be 16 miles.

Q. What is the light house that way to the westward?

A. That is the Marion Shell Bank light house. We call it Pass Marianne.

Q. What direction is Isle à Pitre from that light house?

A. It is south east from that light house.

Q. Is that light house almost between Bay St. Louis and Isle à Pitre?

A. No sir, Isle à Pitre is a little further out.

Q. Southeast?

A. Yes sir, there is one four or five miles across from Cat island to Isle à Pitre.

Q. How far is it on a direct line from Bay St. Louis to the eastern mouth of Pearl river?

A. That is 25 to 27 miles from here.

Q. Well there is an island out there near the mouth of Pearl river. Between here and the mouth of Pearl river near Half Moon island?

A. That is Grand island. It is not direct on the mouth of Pearl river. It is more to the east of the mouth of Pearl river.

Q. And Half Moon island and Grand island amount to the same thing?

A. Yes sir, the same thing. We call it Half Moon because it comes around in this direction. There is to the front of the east mouth of Pearl river Grassy island. That is right in front of the mouth of Pearl river; it is not right in front, but it is just a little to the east.

Q. Where is St. Joseph?

A. Old St. Joseph is more to the north of Half Moon. It is more north than Half Moon.

Q. You mean that it is north east then?

A. Yes sir, about north east yes sir of Half Moon. That is Old St. Joseph.

1740 Q. You see up here the L. & N. R. R. crosses Bay St. Louis?

A. Yes sir.

Q. How long is that bridge?

A. It is supposed to be two miles as I understand it.

Q. You were asked by Col. Zacharie if that marsh down there was called the Louisiana marsh. Did you ever hear it called Grand marsh?

A. No sir, it was called Louisiana marsh when we got down about Bayou Mussel.

Q. Is that where the mosquitoes come from?

A. They come from almost every where. Some times they are around here too, and down in the Rigolets and at Point Chicot, and La Fortuna, and Bayou Pascal. I can tell you all of these places. Yes sir, I am pretty well acquainted with all of this marsh. I have gone there pretty often.

E. E. O'Brien, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McClurg:

Q. Where do you live Mr. O'Brien?

A. At Bay St. Louis?

Q. How old are you?

A. I am 59 years old sir.

Q. How long have you resided in Bay St. Louis?

A. Permanently for 11 years.

Q. Had you lived in Hancock county before?

A. Well not permanently. My homestead and residence is here. I have been living in that county about 54 years.

Q. Did you ever hold any official position in Bay St. Louis or Hancock county?

A. Yes sir, I have been mayor of Bay St. Louis for the last three terms.

Q. When did you first enter upon the office of mayor?

A. I think that it was in 1900. April 1900. I then filled an unexpired term of Mr. Toulme. I was elected then, and I was re-elected last April I was re-elected again.

Q. And you were filling an unexpired term in 1900?

A. I think it was that year.

Q. Have you had any personal knowledge or information of any serious disturbance or any threatened armed conflict between the sheriff and officers of St. Bernard parish Louisiana and the sheriff and officers of Harrison county or Hancock county, or authorities of Mississippi with reference to this boundary line. If so I wish you would state what it is.

A. I never heard of any.

Q. You were here in 1900?

A. Yes sir.

Q. And 1898?

A. Yes sir.

Q. And back before that?

A. Yes sir; but I never heard of any serious conflict.

Q. You never heard of any trouble?

A. No sir.

Q. No dispute as to where the line was?

A. (No answer.)

Q. Did you ever hear at any time or in any way as to any controversy or dispute over the State line prior to the year 1901, or about that time?

A. I never heard of any dispute. I never heard of any thing at all until the controversy arose between the two States of Mississippi and Louisiana. That is the only thing that I ever heard of. I followed that pretty close, but I never heard of any dispute in that respect.

741 Cross-examination.

By Col. ZACHARIE:

Q. Mr. O'Brien, you know the territory running from Isle à Pitre eastward towards the Mississippi river?

A. Well I have been out there on fishing excursions.

Q. Is that territory not generally called by the fishermen and people along the coast the Louisiana marshes?

A. Yes sir.

Q. Has it not always been considered a part of the parish of St. Bernard in the State of Louisiana?

A. Well as far as that question is concerned I will state Mr. Zachary I don't know whether that would be considered in that way or not, but I know since my boyhood I never have known of the place or ever heard of it as anything else except the Louisiana marsh.

Q. Was it not the common expression among all of the fishermen and the people generally that that territory is the Louisiana marsh?

A. I have always heard it so mentioned.

Q. Did you hear in 1898 of an expedition being fitted out by the sheriff of St. Bernard parish to drive out the Mississippi fishermen and exclude them from fishing in this territory?

A. I don't remember it at all.

Q. When did you first hear of this dispute about this boundary?

A. When the suit was instituted.

Q. Did you not hear some twenty months before the institution of the suit of the appointment of these boundary commissioners on the part of Mississippi and Louisiana?

Q. Did I not hear what Colonel?

Q. Did not you hear of the appointment of this boundary commission?

A. Yes sir.

Q. You are familiar with this territory? You have boated and sailed around there?

A. Yes sir, I have boated around here for the last forty years.

Q. Do you know where the main deep water channel is from the mouth of Pearl river going east? Does that not lay north of Half Moon and close to the Mississippi shore?

A. It does.

Q. That is where the deep water vessels go through there?

A. Yes sir.

Q. In your various visits to this territory have you seen the effects of these storms such as the one of 1893 and others in cutting up this territory?

A. In certain portions of it. I have been down to the westward of there after the last storm. The two previous storms I noticed where the depredations were more out there at Cat island.

Q. I am speaking of the interior of the marshes. The bayous and the passes.

A. I never went through there. I was fishing on the outside there. We never went up through these bayous or anywhere there. We fished on the outside there entirely.

By Mr. DYMOND:

Q. Mr. O'Brien, do you know Judge Neville?

A. Yes sir.

Q. Was he not the district attorney here just prior to 1898?

A. Yes sir.

Q. Well you said that you had never heard of any dispute between the officers of the parish of St. Bernard and the counties of Harrison and Hancock. Were you aware of the fact that Mr. Neville went over to see the district attorney of St. Bernard parish in regard to the exclusion of Mississippians down there?

A. I never knew of it.

Q. You never knew of that fact?

A. I never knew of that fact. I have made it a rule not to come to court so I don't know what is going on.

1742 Redirect examination.

By Gen. McCLURG:

Q. Counsel for Louisiana have asked you about calling the territory west of Isle à Pitre the Louisiana marsh and you said I believe that it was generally so called?

A. Yes sir.

Q. Did you understand by that that it belongs to the State of Louisiana because it is called Louisiana marsh?

A. Well my impression would be that way if it is called Louisiana marsh, there must be some reason for giving it that name. Probably they thought it was a portion of Louisiana and extended it in that way to keep it up.

Q. You know that the Louisiana purchase does not all belong to Louisiana does it?

A. No. Maybe it don't and maybe it does. It is a question to be found out I presume.

Q. Do you know that there are some parishes in Louisiana called the Florida parishes.

A. I have heard of them.

Q. Do you imagine that it belongs to Florida because they call them the Florida parishes?

A. I don't suppose they ought to. If they did not pay for them they ought not to have them.

Q. Well if that marsh don't belong to Louisiana she ought not to claim it ought she?

A. Well that is a question for some one else to decide.

Q. The Mississippi river don't belong to Mississippi does it?

A. Yes sir, every thing that we have got in Mississippi belongs to us.

Here the commissioner appointed —— —— as bailiff of the commission during its session at this place.

The commission here adjourned until to morrow morning at nine o'clock.

BAY ST. LOUIS, MISSISSIPPI, August 10th, 1904.

The commission met this morning at nine o'clock, pursuant to the adjournment of yesterday.

There were present Hon. William D. Ballard, commissioner on the part of the State of Mississippi. Hon. Monroe McClurg, counsel on behalf of the State of Mississippi, and Hon. F. C. Zacharie, and Hon. John Dymond, Jr., associate counsel on the part of the State of Louisiana, and F. M. Peyton, stenographer.

W. T. McDONALD, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McCLURE:

Q. Where do you live?

A. At Bay St. Louis Mississippi.

Q. How long have you resided here?

A. Six years in April 1904.

1743 Q. You are the circuit judge for the second judicial district of Mississippi are you?

A. I am.

Q. Jackson, Harrison and Hancock counties are in your district are they?

A. Yes sir, they are.

Q. In this suit Judge between the State of Louisiana and the State of Mississippi there is an allegation to the effect that a contention over the lines dividing these two States in the waters of the Gulf had reached such a crisis about the time of filing of the bill of complaint on October 27th, 1902, that there was a condition of affairs that threatened an armed conflict between the officers of the parish of St. Bernard in the State of Louisiana and the sheriff and officers of the county of Harrison in the State of Mississippi. If you know any thing about such conditions existing in Mississippi I would be glad for you to state here what you may know about it?

A. Officially I know nothing about it. My term of office began in September 1903. As a practitioner at the bars of these three coast counties in this State, I don't know of any case in the courts of these three counties involving the question of State jurisdiction as between Mississippi and Louisiana.

Q. If there had been such a contention, as a practitioner at the bars of these three counties you would have known some thing about it?

A. I would in Hancock and Harrison counties. That is since April 1898.

Q. There is also in this bill a report of an *ex-parte* mass meeting held at the office of Mr. John Dymond, Jr., in the city of New Orleans on the 19th day of January 1901, in which certain resolutions were adopted looking to the consideration of the boundary lines between the two States. Its location and identification, and that the governor of Mississippi was called upon to appoint a commission of five men to meet the commission appointed by that meeting in New Orleans to amicably determine the boundary lines between the two States, and subsequently a meeting of this joint commission was appointed and they failed to come to any agreement, except to recommend that a suit be brought in the Supreme Court of the United States. I call your attention to that for the purpose of having put in the record that you as one of the judges of the Mississippi courts to say whether there is any authority in the constitution and laws of our State which authorizes the governor of our State to under-

taken by a commission appointed by him to adjust the boundary lines between our State and Louisiana or any other State?

By Mr. DYMOND: Objected to and excepted to on the part of the State of Louisiana on the ground that the witness has not qualified himself to testify and to give an opinion on such a subject as this.

A. The governor of Mississippi has no power under the constitution or laws, in the absence of legislative authority to attempt by commission or otherwise to settle a question of disputed boundary between Mississippi and any other State.

Q. Judge, it is understood in this matter that the oyster commission on the part of Mississippi and a similar commission on the part of Louisiana have undertaken to fix what they call a neutral zone, and have attempted as I understand it to bind these two States, and especially is it insisted that Mississippi is bound by the action of these two commissions in fixing the line over which the fishermen of Mississippi may not go, and I presume over which the fishermen of Mississippi may not come, and that line extends along the northern border of the marsh lands from about Malheureux point to Grand pass, and then turns south east through Grand pass down towards Sun Down island. If I am correctly informed it is 1744 agreed that Mississippi fishermen shall not pass south or westward over that line. That they are not to go into the marshes. I want to ask you if you know of any authority under the law as far as the State of Mississippi is concerned empowering the oyster commission of this State to fix a line that is binding upon the citizens of this State in such a matter?

A. The oyster commission under the law creating it had no authority under the law to bind the State of Mississippi with reference to the boundary between Louisiana and Mississippi. I wish to state further in this connection that I was attorney of the Oyster Commission for the State of Mississippi from the date of its creation until September 1893, and attended the joint meeting of the oyster commissions of the two States in the city of New Orleans on September 1892 when the agreement was entered into between the commissions of the two States anticipating any trouble that might arise between the fishermen of the two States fishing in the same territory claimed by the two States, and over which both sides might attempt to enforce laws differing in the dredging and taking of oysters. It was understood at that time that the commissions of neither State had any power to bind its State, but it was a persuasive agreement entered into, without authority to aid in preventing any outside trouble.

Q. That condition of affairs grew out of the act originally of the Oyster Commission of Louisiana and of the parish of St. Bernard in passing strict ordinances, and the strict patrolling in the marshes of the controverted territory did it not?

A. Well I don't know whether they had been at that time espe-

Cross-examination.

By Mr. DYMOND:

Q. I understand you to say that you were at one time sheriff of Jackson county?

A. Yes sir.

Q. Where is the line that forms the eastern boundary of Jackson county?

1749 A. The line—I don't know how—the line between Alabama and Mississippi is on the east side of the State.

Q. Where is the north and south line that separates Jackson county from Harrison county?

A. Do you want me to describe it?

Q. About where it is yes sir.

A. The line is divided by the middle of the range line. Range 9.

Q. Does it not come down through Biloxi bay?

A. It comes down through the middle of range 9 until it gets to the channel of Biloxi bay, and then follows that channel in an easterly direction until it passes the east end of Deer island, and then goes out into the sound.

Q. Now is it not a fact Mr. Minor, that none of the water territory formed by the east and west boundary lines of the county of Jackson is in this disputed territory between the States of Louisiana and Mississippi?

A. I don't know how much they claim. No it would not touch that territory at all.

Q. Well now would not that also, Dauphine island, and Petit pass, and Horn and a part of Ship island form the exterior front on the Gulf side of Jackson county?

A. Well that don't touch Ship island at all I don't think. Jackson county.

Q. That is on the westward you mean?

A. No sir, there are only two islands. Well there is Horn island and Petit Pass island.

Q. What about Dauphine. Does not that form a part?

A. No sir.

Q. In what State is Dauphine?

A. That is in Alabama I reckon.

Q. There are these islands that you have mentioned, or string of islands on the south of the shore of Mississippi in Jackson county?

A. They are not on the south side of it, because the territory we claim takes in all of the islands.

Q. What I mean is that they form the southern extremity of Jackson county don't they?

A. No sir, the county goes still further south.

Q. How much further south?

A. Well we would go at Horn island some seven or eight miles.

Q. Why so?

A. Because the 18 miles would over reach it.

Are there any islands 18 miles off the shore of Jackson county?
I thought probably you were getting the question as to whether
ognized jurisdiction outside of these islands. That is in re-
o making arrests and things of that sort.
The article of the act of Congress, and the article of your con-
on gives the State all islands within 18 miles where there are
ls, but it does not say anything about jurisdiction where there
o islands. Have you been exercising jurisdiction 18 miles
e there are no islands?
. No sir.
Now I understand you to say that you were fishing oysters
1880 to 1890?
. Yes sir.
. That during that time y. . were not disturbed in the Louisi-
marsh?
. No sir.
. Do you know whether there was any one in Louisiana at that
e to enforce the Louisiana law.
. No sir.
Q. Do you know what the Louisiana law was in 1880 in regard
ion residents fishing oysters in Louisiana?
A. No sir.
Q Now you were not fishing oysters in 1898 when an expedition
s gotten up by the parish of St. Bernard?
A. No sir.
Q. Did you ever hear anything of that. The fishermen had been
cluded or threatened to be excluded?
A. I heard some little rumor at that time but it was only
50 through the newspapers. I was clear out of the oyster busi-
ness then.
Q. As I recollect it the oyster commission was created by the
gislature of Mississippi in May 1902, in January?
A. Yes sir.
Q. The Oyster Commission of Louisiana was created by the legis-
ature of Louisiana that met in May 1902. Now so far as your
knowledge goes have you any recollection of there having been on
the part of either State previous to that any such body specially
delegated by the law to enforce the laws of the two States?
A. No sir.
Q. You were a member of the oyster commission that met in
joint session in New Orleans with the Oyster Commission of Louisi-
ana in September 1902?
A. Yes sir.
Q. You were aware of the fact that prior to that time the State of
Louisiana through its governor had requested the State of Missis-
sippi through its governor to appoint an amicable boundary com-
mission, and that these two commissions met and they could not
agree, and the Mississippi commission had recommended that a suit
be filed in the Supreme Court of the United States to settle the

boundary dispute between the two States. Were not you aware of this fact when you became a member of the Oyster Commission of Mississippi?

A. Yes sir.

Q. Therefore when you met in New Orleans with the Louisiana Oyster Commission you recognized that it was necessary to do something to prevent any conflict between the two States through the instrumentality of their oyster commissions did you not?

A. Yes sir, I thought it was necessary, and when we were notified by the Louisiana commission to meet them there I thought it was a good move.

Q. Now you knew did you not that the Oyster Commission of Louisiana was specially authorized by law to maintain an armed patrol of its territory, and what it considered to be the State of Louisiana?

A. That is what I heard.

Q. You knew also that the oyster law of Mississippi authorized its commission to maintain a patrol of the waters?

A. Yes sir.

Q. Now what would have been the consequence if there had not been such an agreement, with two intelligent official bodies, patriotic, endeavoring to enforce the rights of their respective States?

A. Some body would have gotten hurt.

By Mr. McCLURG: This answer of the witness is objected to and excepted to on the part of the State of Mississippi as being the statement of an opinion.

Q. Do you recollect a talk or argument of mine as counsel for the State of Louisiana in connection with the statement that if there was no agreement that Louisiana would be compelled to enforce what she thought to be her rights, and the corresponding statement from the president of the Oyster Commission of Mississippi that Mississippi would necessarily have to follow suit and meet us with our own weapons?

A. Well we had some pretty jolly talk there. It looked like they were playing some pretty good bluffs on both sides.

Q. But as a man of good hard common sense you recognized that if there had not been such an agreement there would have been trouble between the two bodies?

A. That is the way I looked at it. There had to be some thing done.

By Col. ZACHARIE:

Q. Is it not a fact that the territory running westward from Isle à Pitre to the Mississippi river has been generally known
1751 amongst fishermen and others along this coast as the Louisiana marshes. Was not it generally called that?

A. Well my recollection is—the first trip that I ever went out in the marsh was with an old fisherman. He is living in New Orleans

d his term in using the word then was Grand marsh. Prob-
e is using it today. All of the old time fishermen when they
ing down there and you would ask them where they were
they would say to the Grand marsh. Since this oyster busi-
as been developed, I can say in the last ten years, the word
l marsh has been dropped and they use the word Louisiana
. It is very seldom now that you hear the word Grand marsh,
t you go back to Biloxi to some of those old time fellows that
been fishing down there for forty years, and they might still
at same word, Grand marsh.

Q. Then I understand you to say if this agreement had not been
ed into between the oyster commissions of the two States that
was anticipated on both sides an armed conflict between the
rities of the two States in endeavoring to enforce what they
ed to be their rights?

A. Well of course it looked that way. Here is the law, and here
r law telling us to go out there and enforce the law. While
n't know that we had that same authority to mount cannons
things like that on a boat, we might have gone there in a peace-
way and tried to enforce the law. I don't think we would have
any body.

Q. But there was danger was not there that there might be an
ed conflict. People on either side resisting the commission of
other side?

A. Oh yes sir, it is talked now. Some men say that we ought to
n ourselves and go on in it and pass this line, and then cooler
ads keep them down. They don't think that they have been
ated right is the reason why.

Redirect examination.

By Gen. McCLURG:

Q. There has been a great deal asked you about armed expedi-
ons and threatened conflicts. Do I understand that the oyster
ommissions of these two States forgot that there was a civil govern-
ment, and that the courts of the country and their States were able
o handle this question, or did they forget that there were courts,
and the two oyster commissions go down there and imagine they
were going to have war?

A. No sir, they did not forget it.

Q. Now is it not a fact that Mississippi never sent out any armed
expedition or boats, but sent her civil officers with the power to ar-
rest and bring them before the civil courts?

A. Yes sir, that is the way that they did it.

Q. And did not you think that the courts were competent to settle
the question as to whether any law had been violated or not?

A. Yes sir, I think that the courts had power enough.

Q. Did you not think that the courts of Louisiana and the gov-
ernment of Louisiana was big enough, and strong enough and just

enough to arrest violators of the law upon the water the same as upon the land and take them before their courts without any armed conflict, and test the question as to whether they had violated the Louisiana law or not. Did you not think that?

A. I thought that either State had power enough.

Q. Mississippi had sent no savages in there to be encountered by an armed patrol had she?

A. No sir.

Q. Then all of this stuff about armed conflicts and sending out armed expeditions. It was in the absence of any recollection that there was a judiciary established by the Government to settle

1752 these questions was not it?

By Mr. DYMOND: These quesions are excepted to on the part of the State of Louisiana on the ground of their being leading and suggestive.

A. My idea about all of this thing of an armed expedition was more of a bluff on both sides. I did not believe that any body intended to carry out any of it.

Q. Mississippi did not bluff did she. She never sent out any armed fleet?

A. No sir, I never heard of any being out there.

Q. And so when you got to the bottom truth of it it was all bugaboo. Pretense?

A. There was nothing showing on the surface.

Q. It was what they call in war a kind of a feint?

A. I thought it was a bluff.

Recross-examination.

By Col. ZACHARIE:

Q. Mr. Minor, the counsel for Mississippi has asked you was there not ample redress before the civil courts or criminal courts of either State for the assertion of rights of the other State. Suppose the sheriff was to attempt to arrest a citizen of Louisiana, fishing oysters in what was claimed at that time, and is still claimed to be Mississippi waters, and he should have been resisted by the parties sought to be arrested, would he not have resorted to a posse where he had a warrant for the arrest of the man and by force of arms arrest that man. Would it not be his duty?

A. Yes sir.

By Mr. MCCLURG: This is objected to and excepted to on the part of the State of Mississippi as being irrelevant and suppositious, in leaving out the fact in the statement of the hypothetical case that there is resistance on the part of the man sought to be arrested.

Q. You state in your examination in chief that this agreement was entered into on account of apprehended difficulties which were deemed to be impending by both commissions. Was not that diffi-

uch as I have just described of resistance to the courts, to the
of the courts, and to the exercise of authority by the sheriff
her officers. Was not that the difficulty which you sought to

?
Yes sir.
Did you not hear two or three or four years pri[illegible] to the insti-
of this suit that Mississippi fishermen had b[illegible] warned by
uthorities of the parish of St. Bernard in the S[illegible] of Louisiana
ve this ground and not to fish there and that the Mississippi
men had replied in some instances that they would not do so?
I don't know of any thing of that sort of my own knowledge.
Did you not hear of such a thing?
I never heard of it until this. Until after I was appointed on
ommission and this question came up of trouble. I have heard
eat many men say after that that they were warned away, but I
never heard of it before that time.
Now is it not a fact that as far back as you can remember that
territory lying westward from Isle à Pitre towards the Missis-
sippi river has been generally regarded as a part of the par-
ish of St. Bernard in the State of Louisiana?

A. No sir. My first recollection about any thing out there,
in that section of the country was the question where the
uisiana and Mississippi lines had passed through that marsh, and
metime in the '80's there were some beacons out there. I never
l learn who they were put there by, whether by the United States
vernment in making some of their surveys or the Mississippi or
uisiana people. I never did learn why they were put there. I
n't recollect now where they were but I have heard it said that
re were some of the surveyors surveying the two State lines, but
don't know who put them there, but I know that it was the talk
ith the boatmen that this is where they were laying out the lines.
Q. That you say was some time in the '80's?
A. Yes sir.
Q. Prior to that time in the '80's which you have mentioned was
ot that territory generally regarded as a part of the parish of St.
Bernard and of the State of Louisiana?
A. No sir, I never did know it to be a part of it.
Q. Did you ever hear of any claim prior to that time being made
that that territory was a part of the State of Mississippi?
A. I don't understand that question.
Q. I say, prior to that time did you ever hear of any claim being
made on the part of Mississippi that the disputed territory was a
part of the State of Mississippi?
A. No sir.
Q. You never had?
A. It was generally understood with all of the boatmen that the
Mississippi lines went 18 miles from the main line, and in fishing
oysters out there it was just like it was out there for everybody.

cially, but it was their intention to do so, but my recollection is now that the laws of Louisiana prohibited dredging of any description.

Q. In what kind of a penalty. They made it a felony did they not?

A. I don't know sir. I don't remember, but the laws of Mississippi permitted dredging.

Q. And the fishermen of Mississippi dredging in this territory were liable to be picked up and prosecuted and their boats confiscated?

A. Yes sir for using dredges. It was intended more as an armistice pending the determination of the local question as to where the boundary was.

Cross-examination.

By Mr. DYMOND:

Q. I understand it that you were not in Bay St. Louis in January or February 1898?

A. No sir I came to the coast on April 1st, 1898.

Q. Where did you live previous to that?

A. In north Mississippi.

Q. Therefore if in January 1898 the police jury of the parish of St. Bernard made up an armed expedition to go through the Louisiana marshes and expel therefrom non residents in complying with the Louisiana law you were not aware of that fact at that time?

A. I had not any knowledge of it living 300 miles away from this section.

Q. You were aware if I am not mistaken that the governor of Louisiana appointed a boundary commission and that the governor of Mississippi appointed a similar boundary commission in February 1902 to see if it was not possible to amicably adjust this dispute in regard to the boundary?

A. Yes sir, I know that there was a commission appointed by the governor of each State with reference to the disputed boundary between the two States.

Q. If there had been any agreement reached by those two commissions was there any thing in the law of Mississippi or in
1745 the law of Louisiana which would have prevented these two legislatures of these two States subsequently ratifying the actions of these commissions, and Congress from also subsequently ratifying such an agreement?

A. I don't remember any provision of the constitution of Mississippi as to that, but as to the legislative branch of the government, it would be a question within its power, a ratification by the legislature of the State of Mississippi. The act of the commission would have no effect at all in the absence of legislative authority and legislative ratification.

Q. But the legislature had full power to ratify the action if it chose to do so?

A. I think so.

Q. Is it not a fact that the boundary of the State of Mississippi in its relation to the State of Tennessee some time ago was settled by commissioners under authority of legislative action or otherwise?

A. There was a dispute about the northern boundary line of Mississippi, the details of which I can not recollect now, but it is my information, my recollection, it is a historical fact that there was a commission appointed to settle it.

Q. You knew did not you, Mr. J. H. Neville, who was at one time district attorney and subsequently judge in Mississippi?

A. I knew him very well.

Q. Just prior to 1898 did not Mr. Neville; had not he been district attorney here for a number of years?

A. For several years. I think that he resigned either the first of 1896 or the first of 1897, possibly 1897 as district attorney, which office he had filled for several years. He was appointed circuit judge in May 1902 I think it was.

Q. Had not he been district attorney long enough for it to become a well recognized fact through this section of the country that he was district attorney, and had been district attorney for quite a while?

A. I think it was generally known by the people here that he was district attorney.

Q. Did you know in the early part of 1898 or towards the middle of that year that he had called on the district attorney of the parish of St. Bernard in connection with *the some* other Mississippians from that section of the country?

A. I have no knowledge or recollection of any matters of that sort.

Q. As I understand it you were the counsel advising the Oyster Commission of Mississippi at the time it held its conference in the city of New Orleans with the Oyster Commission of Louisiana concerning this disputed territory in September 1902?

A. I was the legal adviser and attorney of the board.

Q. You were aware of the fact were you not that under the oyster law of 1902 of Louisiana, that the Louisiana Oyster Commission was authorized to maintain an armed patrol to enforce the oyster law of Louisiana in the State of Louisiana?

A. It is my recollection that is one of the provisions of the law.

Q. You knew also did you not that the State of Mississippi through its oyster commission was likewise authorized to maintain a patrol?

A. I knew that.

Q. Do you recollect the gentleman's name who was president of the oyster commission at that time?

A. Mr. Haddlestadt.

Q. Do you recollect that during that conference a statement was made by me that in the absence of an amicable agreement that the State of Louisiana would be compelled to use its oyster commission to enforce the law in what it, the Oyster Commission of Louisiana,

considered to be the State of Louisiana, and a counter statement from the president of the Oyster Commission of Mississippi that if Louisiana used force, that Mississippi would be compelled to protect itself in some similar way?

1746 A. I remember some thing in effect but do not remember the language.

Q. Is it not a fact that things got sorter warm there for awhile until they were quieted down by the amicable agreement?

A. I think there was a little temper displayed.

Q. While it may be perfectly true that neither commission had any authority to make this amicable agreement, was not — in your opinion, as the adviser of this commission, for the best interests of both sides that some amicable agreement should be made pending the settlement of this dispute?

A. I think so, and advised the commission to that effect. The commission of Mississippi.

Q. From your knowledge of local conditions in the absence of such an agreement would not there have been a likelihood of trouble, if there was an *affort* by them to enforce the laws of their respective States on the part of the officials?

A. On the idea that two bodies cannot occupy the same space at the same time, there would have been trouble if the commission of either State had attempted to exercise jurisdiction.

Redirect examination.

By Gen. McCLURG:

Q. As I understand it, in spite of the fact that the Constitution of the United States and of the States of Louisiana and Mississippi provided for the settlement of controversies between two States as to the boundary lines between those two States, that the oyster commissions with certain delegated powers from each State, got together down there and undertook to usurp the constitutional powers of the Federal Government, and the two States government-, and tied the hands of the State as to where they should not go. I am talking about the persuasive features and not the legal features?

A. I don't understand that it went to that extent of persuasively fixing the boundaries of the two States, but fixing a certain zone which was conceded to be in dispute between the two States, in which the fishermen might go pending the determination of the case.

Q. Now is it not also true that the legislatures of both States have met since this meeting, and neither State recognized any dispute as to the lines between the States by legislative acts, and did not ratify what had been done by the oyster commissions?

A. I can say this. That Mississippi has not taken any action so far as I know, and I have read over the acts of 1904. What action Louisiana has taken through her legislative body I don't know.

Q. You remember that the governor of Mississippi called the at-

tion of the legislature of 1902 to this matter and no action was
ken by the legislature of Mississippi?
A. I really don't recollect the circumstance. It may be that that
the case.

Recross-examination.

By Mr. DYMOND:

Q. Is it not a fact that in calling the attention of the legislature
this subject the governor mentioned the fact that an amicable
uit had been suggested to be filed in the Supreme Court of the
nited States?
A. I really don't recollect any thing was done in Mississippi by
he governor of Mississippi in regard to it.

J. D. MINOR, a witness introduced on behalf of the State of
1747 Mississippi being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. Where do you reside, Mr. Minor?
A. At Ocean Springs.
Q. In what county?
A. In Jackson county, Mississippi.
Q. How long have you resided in Jackson county?
A. I have resided in the county for 39 years.
Q. Have you ever held any official positions in the county and if
so I wish you would please tell us what they were and the dates that
you held them?
A. In 1895 I was the sheriff of the county. 1895 and 1896, and
1902 and 1903 I was sheriff of the county.
Q. Well during the time that you filled the office of sheriff of
Jackson county if you knew of any serious conflict between the
officers of St. Bernard parish Louisiana and the officers of Harrison
county Mississippi or any other portions of the State of Louisiana or
any other portions of the State of Mississippi respecting the boundary
lines of these two States please mention it?
A. No sir, I never knew of any controversy between them.
Q. Have you any information or knowledge from any source
whatever as to any dispute in the waters of the Gulf as to the line
between the two States during this time?
A. No sir, I never knew of any dispute until the last four or five
years. I don't remember exactly when the commencement of this
controversy took place, but it was some time before this law suit.
We were out a good many times to make arrests out there and we
just went on and did it. And we thought we had a right to go.
Q. To what extent did the officers of Jackson county exercise
sovereignty and jurisdiction south of Mississippi's land?
A. For 18 miles south of the shore line.

Q. Have you ever been engaged in the oyster business Mr. Minor?

A. Well I have caught some oysters in the marshes. The first time I went in the marsh I think was about in 1880. I won't say positively the different years, but from 1880 to 1890. For the ten years off and on.

Q. During this time was there ever any trouble at all about the State line?

A. No sir.

Q. Have you ever been a member of the Mississippi Oyster Commission?

A. Yes sir.

Q. When were you first appointed?

A. I was appointed when the commission was first formed. It will be two years next September 1902.

Q. Were you — of those who made an agreement with the Oyster Commission of Louisiana as to the neutral zone?

A. Yes sir, I was at the meeting in New Orleans.

Q. Where is that line?

A. The line that we agreed on on that day?

Q. Yes sir?

A. Well we began at the mouth of Pearl river and run to Malheureux point, and we followed the marsh to Grand pass, and then out to Sundown island, a northeast direction until we struck Cat Island channel.

Q. Well now that was the line. What was the agreement as to the line?

A. The agreement was that the two commissions would respect the license of either State.

Q. Up to that line?

A. Up to that line. That is if a Mississippi boat was in there with a Mississippi license why the Louisiana boats would pass her by as though she was in her own territory. The same with Louisiana.

Q. It was agreed that Mississippi boats should not cross
1748 that line into the marshes without a license from the State of Louisiana?

A. Yes sir, she would have to be licensed.

Q. The Louisiana fishermen should not cross this line?

A. No sir. It was from what was supposed to be the deep water channel to the marsh that was considered neutral ground. Both States could fish in there until the determination of this suit.

Q. Where was the territory that both States could fish in?

A. Beginning with Pearl river and going to Malheureux point, and down through Grand pass out to Sundown island, and then in a north east direction to Cat Island channel, and then following Cat Island channel back to where we started from.

Q. Following the channel?

A. Yes sir.

Q. What they term the deep water channel?

A. I term it the Cat Island channel.

Vell between that channel and that line both States could there?

Both States could fish in there provided they had a license ither State.

And below that line. South and west of that line Mississip- could not go?

And north of Cat Island channel the Louisiana people could ?

They were not permitted to go unless they had a Mississippi e.

That then deprived and debarred the Mississippi boats and ssippi fishermen from going into the marshes west of Grand

South of that line.

They were cut out of that entirely?

They were cut out of that entirely.

Now that was the action of the joint commission of the two s?

Yes sir.

Did they undertake or understand that the two States, or the ens of the two States were to be bound by that?

No sir, it was understood that this agreement that they were king had no legal standing. That is that either State could ik away from it, or the citizens of either State need not pay any ntion to it. The idea was to make this agreement so as to do y with any difficulty that might come up in the boats going into s territory.

Q. And if the Mississippi boats would not cross that line they uld not be arrested by the Louisiana authorities?

A. No sir.

Q. But if they did they would be arrested?

A. Yes sir.

Q. And *vice versa*?

A. Well no, with our lines it was different.

Q. How was it on our lines?

A. Louisiana could come in on our lines provided she took out a lississippi license.

Q. The Mississippi boats could not go into the Louisiana territory ith a Louisiana license?

A. She could go in there with a Louisiana license, but she must tay in Louisiana. The oysters had to stay in the State.

Q. Could the Louisiana boats come into Mississippi territory with a Mississippi license and haul oysters back to Louisiana?

A. Yes sir.

Q. It looks like Mississippi was playing a losing game, does not it?

A. The oysters from Mississippi were carried into Alabama from Mississippi last year. They paid a two cent tax.

you state the commercial importance of that business to the State of Mississippi?

A. I have prepared a paper here, and I want to say in this connection that I was selected as chairman of the testimony committee from the Commercial Club. As such I have tried to gather different things that might be useful.

Q. If this is correct you can file it as your statement.

A. I have prepared what I consider as a statement which in my judgment is as near correct as it can be and which I now submit.

The statement above referred to is here offered and introduced in evidence and is marked Exhibit A to the testimony of this witness.

Exhibit A furnished by the witness as an exhibit to his testimony is here filed as a part of the testimony in this case, and a copy thereof is furnished to counsel for the State of Louisiana.

By Mr. DYMOND: To which offer the counsel for the State of Louisiana object and except on the ground that it has no relation to the subject matter in controversy in this suit. And it is a statement in regard to the assessed values of property, and the cost and the value of the products produced in the counties forming the coast of the State of Mississippi, together with the statement as to the population of the several counties and the number of boats and vessels, without relation to the subject of oysters, or the territory in dispute in this case.

Cross-examination.

By Mr. DYMOND:

Q. As I understand it you have been familiar with the oyster industry on the coast for the past 18 or 20 years?

A. Yes sir.

Q. And have taken quite an active interest in the matter from the Mississippi point of view?

A. Yes sir.

1760 Q. Was I correct in understanding you to say that the first knowledge that you had of the dispute between Louisiana and Mississippi was when the two oyster commissions got into a dispute over the revenues that would come from the disputed area?

A. I can say that there was no contention or conflict until the Oyster Commission of Louisiana started to look into the question for revenue. There was no conflict or contention prior to that time so far as I know.

Q. Well as I understand it you say that in January 1902 the State of Mississippi appointed an oyster commission on the suggestion of the canning interests of the State of Mississippi thinking that by the production of a revenue the oyster interests could be better protected, and subsequently in the month of May 1902 the State of Louisiana appointed a similar commission who also provided for a

enue following the statute of the State of Mississippi, and it was
a result of this that there developed a dispute between the two
ates, especially over the revenue which was to come under the
eration of the two oyster laws?
A. Well now that is a very lengthy question and I would like to
plain it fully. There was no confusion or any thing of that sort
til the Louisiana commission did according to the views of the
ssissippi authorities usurp their authority arbitrarily by going
on these grounds and putting a patrol boat there for the purpose
arresting citizens of Mississippi. That is what brought about the
ginal question as to bringing about some amicable arrangement
tween the two commissions on a working basis.
Q. Well now Mr. Stenographer will you please refer to the testi-
ony of Mr. Heidenheim where he gave his explanation of the
rt of the controversy and read it to Mr. Heidenheim so that he
y refresh his memory as to what he has just testified to?
(The former testimony of the witness is here read over to him from
e stenographer's notes.)
Q. Mr. Heidenheim, have you heard your testimony as re-read to
u by the stenographer?
A. Yes sir, I heard that.
Q. Is that statement correct as you have heard it reread to you?
A. Yes sir, that is correct to the best of my knowledge and belief
s sir.
Q. Then as I understand it the dispute originated in 1902 between
e two oyster commissions that were appointed by the respective
ates to control the oyster industry of the respective States?
A. I hold to the original position that this conflict is due to the
ster commission sending a patrol boat into Mississippi, and that
e whole dispute rests upon that.
Q. When was this?
A. By sending a patrol boat into Mississippi and it was due to
at act.
Q. When was this done?
A. It was right after I think the Louisiana commission took pos-
ssion.
Q. After the Louisiana commission was created by act No. 153 of
e legislature of Louisiana of 1902. Then the patrol boat that you
fer to was the patrol boat of that commission?
A. No sir.
Q. It must have been subsequent to the creation of the commis-
on?
A. I think it was in 1902.
Q. You never heard of any dispute prior to that?
A. No sir.
Q. Now were you in the oyster industry in 1898?
A. Yes sir.
Q. Did you ever hear of an expedition having been gotten up by

the police jury of the parish of St. Bernard, State of Louisiana in January or February 1898, sent out by the sheriff of the parish of St. Bernard to warn from the Louisiana marshes non residents fishing there?

A. No sir, I never heard any thing of that.

Q. Did you ever have any of the fishermen to report to you

1761 that they had been expelled from that section?

A. No sir, not prior to 1902.

Q. Then as I understand it definitely and positively you had never heard any thing of the dispute prior to 1902?

A. No sir, not until these patrol boats got on our waters.

Q. And these patrol boats did not go until 1902?

A. As far as I know there has never been any patrol boat out there until 1902.

Q. You could not be mistaken about this?

A. No sir, not as I remember.

Q. I would like now to give you the benefit of every opportunity to put yourself on your guard and refresh your memory in regard to this?

A. Well as far as I know we never had any trouble until 1902 when the oyster commission was created.

Q. Now Mr. Heidenheim as I understand it you persist to state that it was 1902 when there was first any dispute as to the boundary or any endeavor to enforce the rights of the State of Louisiana?

A. That is the first information that we took any interest *any interest* in was in 1902 after the commission was formed.

Q. Now is it not true that there was held in the city of New Orleans on January 19th 1901, a meeting presided over by the governor of the State of Louisiana wherein resolutions were passed and a communication was written by the governor of Louisiana to the governor of Mississippi requesting the governor of Mississippi to appoint a boundary commission to see if it was not possible to settle this dispute amicably between the oyster commissions to be appointed by the respective governors?

A. I don't know anything of that.

Q. You are quite positive that you know absolutely nothing of that fact?

A. No sir, I know nothing of that fact.

Q. You are quite positive that you never took any steps that had any relation to that fact?

A. Not that I know of no sir.

Q. Did you ever have any conference with the amicable boundary commission which was appointed by the governor of Mississippi and did you ever give them the benefit of your advice concerning what you considered to be the Mississippi line?

A. Well when they first met in New Orleans I did give them the benefit of some advice.

Q. When was this?

A. I don't remember exactly the year now. I think that it was

t ten or fifteen days before they went to New Orleans that we
them some advice. I believe I was one of them that did.
You refer now as I understand it to the amicable boundary
mission that was appointed by the governor of Mississippi A.
Longino, to confer with a similar commission that was appointed
the governor of Louisiana?
A. Well I don't know that I understood it in that way. I under-
sd it that they were to go to New Orleans and have a conference
ether. That is the way that I understood it.
Q. You will please refer to the bill of complaint——
A. I want to correct that one minute please. There was a com-
ittee appointed. I got the oyster commission mixed with this
mmittee that you speak of. There was a committee appointed by
e governor as you say. Mr. Bowers and Mr. Neville and so on.
e thought that we had no choice as far as the packers were con-
rned. We had nothing to do with this committee at all.
Q. What committee is that?
A. That is the commissioners. The commissioners. I remember
hen they were appointed, and that we gave them no advice at all.
Q. Now you will notice that this letter of Governor Longino is
ated February 9th, 1901?
A. Yes sir.
Q. And you notice from this Exhibit "D" attached and
1762 made a part of the original bill of complaint on the part of
the State of Louisiana that this commission met in joint ses
sion on the 26th of March, 1901?
A. Yes sir.
Q. Did you as a citizen of the State of Mississippi having at heart
the welfare of the oyster industry of the State have any conference
with this Mississippi Boundary Commission either before or after it
met the Louisiana Commission in joint session in New Orleans on
the date designated?
A. I was present before this commission went to New Orleans and
there was one time, that I remember Mr. Bowers, if I am not mis-
taken, Mr. White and Mr. Ford, that is had a conference that I was
present at, but it was unanimously decided to maintain the bound-
ary line as laid down by the statute.
Q. Had you had any discussion with the commission at that
time?
A. No more than we conferred together. I think that Mr. Joul-
lian was present in this conference too. I think that it was Mr.
White, Mr. Bowers, Mr. Ford, Mr. Joullian and myself. I think
there were one or two more.
Q. Did you give that commission the benefit of your advice in
regard to the matter?
A. We just told them just what we tell you now. That we always
understood that 18 miles out from Pearl river to Pascagoula was
the boundary of the State of Mississippi.

Q. Did you give them the benefit of any study or investigation that you had made in connection with the matter?

A. I don't think that question came up at all, because Mr. White is as familiar with that question as we are ourselves, having been counsel for the oyster packers here for years, and that line of argument was therefore not necessary.

Q. Then as I understand it do you now persist in your original statement that you knew of no dispute prior to the month of September 1902 as to the boundary between the two States?

A. I mean to say that there was in 1902—I remember this transaction of 1901. I don't deny that. Now if there was any dispute with reference to oysters prior to that time we were not interested in it because as I understood it it was brought about by dredging, and this was practically no conflict at all, but it was a contention about dredging, at that time before as you say the real contention. There was no such thing at all until that patrol boat came into existence.

Q. I would like to get clear on this point. Do you maintain that this is a dispute between two States as to oysters or as to boundaries. Which is the important thing that the States are trying to settle?

A. I think that the question of oysters in this matter is only a secondary question.

Q. Is not the question of boundary the principal point?

A. The question of boundary and therefore I hold in the question of boundary there was no dispute.

Q. Is not the matter of oysters simply a result that flows from the settlement of the boundary?

A. Well I don't know that it is. I look upon the boundary question; the question of jurisdiction as of the highest importance involved therein.

Q. And the other oyster question is secondary?

A. The other is secondary, so if there would be no oysters or would be oysters. There may be gold mines out there or some thing else. There might be some thing leading up to it.

Q. If the boundary was the important matter, is it not a fact that the boundary issue was officially under consideration since the month of March 1901?

A. That might have been possible.

Q. Don't you know about that?

A. Well the only thing I know about it was I remember the first trouble we had with the patrol boat, which went on the ground trying to keep our people out of here. If that was 1901 or 1902, I am not positive.

1763 Q. Now did you ever take any steps to determine from official records what was the boundary between the States of Louisiana and Mississippi?

A. Well that is a question that I think had better be left to legal talent. I have had a resort to everything that money could buy in

the way of books and library and so on. It would take three weeks to tell you all that I know on it.

Q. Reread the question to the witness and get him to answer it yes or no, and then to explain afterwards if he desires to make any explanation?

A. I can answer that right straight and say yes. Yes sir.

Q. Did you give the benefit of the data that you so obtained to the amicable boundary commission appointed by the governor of the State of Mississippi?

A. No sir, because I have only read it since the question has been in the court.

Q. Then as I understand it you took no steps prior to October 1902 when this case was filed in the court?

A. What I want to get straightened out was, I do not deny that we were in the office with Mr. White, whatever year that was in, and Mr. Bowers and Mr. Ford I think it was, and as I stated the question did not come up as to what we knew of oysters because we knew that Mr. White was fully informed, but the question was gone over and maps submitted and everything gone over, and the contention there was the boundary line was as the act made it.

Q. You spoke of the submission of maps to Messrs. Bowers and Ford and White, members of the Amicable Boundary Commission of Mississippi?

A. Yes sir.

Q. Was this prior to the report made by that commission on July 20th 1901, when it made its final report to the Commission of the State of Louisiana?

A. That is all the conference that we had. They called us in to ask us what our opinion was on it and we gave it to them.

Q. I will have the question reread to you. "Did you give the benefit of the date that you so obtained to the amicable boundary commission appointed by the governor of the State of Mississippi?"

A. Yes sir.

Q. What maps did you submit to this commission?

A. We did not submit them any maps. They had the map and asked us our opinion of it.

Q. What map was it that they had?

A. I don't know.

Q. Did you have any maps at that time?

A. No sir.

Q. Did you have any papers at all at that time which you had gotten as a result of your investigation on this subject?

A. We had the charts of the United States Geodetic Department. We had the Fish Hawk map and one that they had in a book. I don't remember which one that was.

Q. Were these all of the maps that you had?

A. That is all that I remember.

Q. Could you possibly have had any other map that you now do not remember?

suggested by any body that the courts of the country could settle these matters. Did any body ever say that the civil courts could try men for violating the oyster laws like they did for violating any any other law, murder or larceny?

A. No sir, that question was never brought up. It was understood by all hands that this agreement we were making there was nothing binding on either State.

Q. That is not the question. I am asking you if in the general discussion in fixing on these lines; that is the neutral territory, if any body ever suggested that the courts of the country could settle all of this dispute, or were you absorbed in the idea of armed
1755 fleets and patrols and things of that sort?

A. No sir, it never was suggested.

C. JOULLIAN, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McCLURG:

Q. Where do you reside?

A. Biloxi.

Q. How old are you?

A. 40.

Q. How long have you lived in Biloxi?

A. 16 years.

Q. That is in Harrison county?

A. Yes sir.

Q. What is your present occupation Mr. Joullian?

A. Oyster and shrimp canner.

Q. How long have you been engaged in that business?

A. In the business actually; the canning of oyster- and shrimp for seven years. Oysters seven years, and shrimp 14 years, and previously shipped oysters about eight years.

Q. Where have you been taking your oysters and shrimp. In what territory?

A. Where I have been getting my supply of raw material?

Q. Yes sir?

A. From the territory down here in front of Pass Christian, and Bay St. Louis, Waveland, and some from Pascagoula, and some from Alabama, and some from down at Grand pass, and some from down in the marshes which might be termed Karako bay, and Fox bay, and Drum bay, and Bayou Greecue and Cranetown, and Three Mile bayou and Jack Williams, and a half a dozen other places down there.

Q. Where did you find the best oysters for the raw trade?

A. I am not in the raw trade now.

Q. Well when you were in it?

A. Out of Louisiana marshes.

Q. You understand do you this agreement that the two commissions entered into?

A. Yes sir, I understand that agreement fully.

Q. That precludes Mississippi boats from going in there and bringing raw oysters into Mississippi does it?

A. Yes sir.

Q. I believe you stated that the best raw oysters are found in the marsh.

A. Yes sir, I will qualify that by saying in any quantity. In a commercial quantity.

Q. It is alleged in this bill of complaint that there was contention over the line dividing the two States. That at the time of filing the bill on October 27th, 1902, there was a threatened armed conflict between these civil officers of St. Bernard parish Louisiana, and Harrison county Mississippi. Did you know anything about any such condition of affairs having existed prior to October 1902?

A. No sir.

Q. Did you ever hear of anything of that sort?

A. No sir.

Q. It is also alleged in this bill of complaint Mr. Joullian that the true line dividing the two States was this deep water sailing channel, commonly called Cat Island channel I think. You know where that is?

A. Yes sir, I know where that is.

Q. Do you know anything of that line being recognised as the true dividing line between these two States?

A. Not prior to the claim as set up by Louisiana.

1756 Q. The commercial interests as we understand it Mr. Joullian, are considerably involved in the correct adjustment of this matter, and I would be glad if you would state to the commission some thing of the importance of this matter to the commercial interests, especially with reference to fish and oysters and shrimp and that sort of commerce, in order that we may get in the record some idea of the commercial interests involved.

By Mr. DYMOND: The above question is objected to by the counsel for the State of Louisiana on the ground that the results flowing from a correct legal interpretation of the disputed boundary issue have nothing to do with this case, and are therefore irrelevant.

A. Well to the best of my calculation the present consumption of raw material and oysters on the coast by the factories that are situated within Mississippi would amount to some thing like a million and a quarter barrels for all purposes. Canning and bulk oyster trade, and a million of shrimp which is the only fish practically canned. It would amount to some thing like ten thousand barrels as near as I can judge. The finished product from this raw material after being turned out by the canneries would amount to near two millions of dollars.

Q. Well taking the oysters and the prosecution of the oyster interests in the territory you have described. What State were you in?

A. In Mississippi in transacting my business.

Cross-examination.

By Col. ZACHARIE:

Q. Mr. Joullian what name is that territory west of Isle à Pitre and running towards the Mississippi river called generally amongst the fishermen and people along this coast?

A. You mean the marshes where they take the oysters?

Q. Yes sir?

A. They have been known and called by people that I have come in contact with Louisiana marshes. I have seen them described on the survey of the United States Government at one time as the Grand marshes.

Q. You gave us some mental estimates both of the raw products and the finer products received and turned out by the Mississippi canneries. How large a proportion if you can fix it of this raw material was derived from that territory west of Isle à Pitre, and from these islands, the Malheureux islands in that neighborhood?

A. Well now that would have to be answered in a way that would supply the separate intervals. I will say that prior to the time that Louisiana set up her claim to the line of the deep water channel that ninety per cent. of oysters used for canning and raw came from the lands west of this line as claimed by Louisiana. Since Louisiana has set up this claim I think it can safely be said that sixty to seventy per cent. is gotten from east and north of this line.

Q. Outside of the disputed territory?

A. Yes sir. I can only answer that in so far as my individual business applies to. I don't know where the others get their oysters.

Q. I think you said if my memory serves me right in your examination in chief that you never had heard of any threats or trouble or armed conflicts between the officers of the State of Mississippi and those of Louisiana until the beginning of this suit. You were in this business in 1898 were you not. The same business?

A. Yes sir.

Q. Did you not at that time hear complaints from your fishermen and boatmen employed, and by others that they had been threatened with arrest and ordered to leave this territory?

A. I did not hear that they had been threatened with ar-
1757 rest, but the fishermen reported that some dagoes had ordered them to leave the marshes without any authority whatever.

Q. Did you or did you not hear of an armed expedition or posse being set on foot by the sheriff of the parish of St. Bernard in the State of Louisiana, and that came down and drove these people out and warned them off, the Mississippi fishermen from this territory?

A. No sir, nothing in any manner official.

Q. Of course you knew of the appointment of these boundary commissioners and their deliberations and meetings that they held in

January 1901. That was about 18 months prior to the institution of the suit in October 1902?

A. I would like to get that part of it straight. I considered that the beginning of the matter when it was set up by Louisiana that she had the sold right to the territory as she now claims it.

Q. You speak of the beginning? The papers were filed when?

A. The papers were filed some time subsequent to that.

Q. In October 1902?

A. Yes sir.

Q. You knew of the meeting of these boundary commissions and the discussion and so on?

A. Yes sir.

Q. When it took place in January 1901?

A. Yes sir.

Q. Have you ever visited this territory yourself?

A. A portion of it. Not all of it.

Q. Which portion of it?

A. The northern portion of it.

Q. That is along the shore line of the sound?

A. Yes sir, along the shore line.

Redirect examination.

By Gen. McCLURG:

Q. I understand you to say Mr. Julicun that you regard the initiation of the suit to be some time prior to the actual bringing of the suit?

A. Literally yes sir, I would judge it could be called the initiation of the suit when Louisiana set up her claim for this territory as she now claims it.

H. HEIDENHEIM, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. McCLURG:

Q. Where do you reside?

A. I reside at present in Biloxi, Mississippi.

Q. How long have you resided in Biloxi?

A. For about 20 years.

Q. What is your business?

A. At the present time I am the secretary of the Barrataria Canning Company and manager of the Biloxi plant.

Q. How long have you been engaged in that business?

A. About 18 and ½ years.

Q. The Barrataria Canning Company as I understand it is engaged in the oyster and shrimp business?

A. Yes sir.

Q. And it is located in Biloxi?

A. Biloxi, Mississippi.

Q. Where has your company been getting its oysters and shrimp?

A. Oysters and shrimp? They have been getting them out of the waters of the Mississippi sound. Principally out of the grounds that we understood to be Mississippi territory.

Q. Designate to the stenographer now what you considered to be Mississippi territory?

1758 A. We always considered Mississippi territory to include all that territory, beginning at Pearl river and running in a southern direction about 18 miles out, and then extending in an easterly direction down as far as the marshes went. Ten miles on the other side of Pascagoula.

Q. You have read the act of Congress admitting Mississippi into the Union and the statutes of the State of Mississippi defining her boundaries have you?

A. Yes sir.

Q. In taking oysters and shrimp for your factory within the limits that you have mentioned, in what State did you consider that you were exercising that privilege?

A. We always considered that we took our oysters in the State of Mississippi.

Q. It is alleged in this bill of complaint Mr. Heidenheim that there was such contention as to the boundary line between the two States in the waters of the sound or Gulf, that at the time of the filing of the bill of complaint in October 1902 there was a threatened armed conflict between the officers of St. Bernard parish Louisiana and the sheriff and officers of the county of Harrison Mississippi. If you have any personal knowledge or any information as to such a condition of affairs I wish you would please state what it was.

A. Well as far as that is concerned that was all imaginary. For 20 years we have been getting a supply of oysters out there and never had any conflict or trouble in any shape or form. We never had any trouble until there was a revenue laid on the part of the State of Mississippi by appointing commissioners, and *the* Louisiana then followed up the Mississippi commission.

Q. That Mississippi commission was appointed in 1902?

A. That Mississippi commission was appointed in 1902, and a revenue bill framed. It was framed on the ingenuity of the packers. It was to cull oysters and protect the reefs etc. Shortly after that Louisiana also framed a bill and a commission was also appointed, and as the contest then arose between these two commissions as to getting this revenue, then the conflict was brought up between the two States which was all imaginary. There never was any conflict. If there was a conflict it was the two commissions trying to get the revenue, as to which one would get it. Prior to that time, and prior to the formation of these two commissions every thing worked amicably, and my opinion is they would be working amicably today if it was not for the question of revenue. That was at the bottom of it.

Q. And that originated in 1902 you say?

A. I don't know exactly what year it was, but it originated shortly after the Louisiana commission was put in legal force, and legal working order.

Q. Now during the 18 years that you had been engaged in the canning business up to that time, if you had ever heard any dispute or controversy of any kind over the location of the State line we would like to know it.

A. No sir, there was never any dispute raised up to that time which I think was 1902.

Q. Now it is also alleged in this bill of complaint that this Cat Island channel or deep water sailing channel out of the mouth of Pearl river by Cat island, north east of Chandeleur is claimed by Louisiana as the true dividing line between the two States. What have you heard of that before if any thing?

A. My contention is that that contention is unsound and contrary to reason. If that was right Louisiana would have 34 miles, which is her coast line to Chandeleur.

By Mr. DYMOND: Objected to on the part of the State of Louisiana on the ground that the witness has not qualified himself to speak as an expert in regard to the legal correctness of the deep water channel as the boundary dividing the two States.

1759 A. I claim if that contention was sound that the boundary line from the coast of Louisiana to Chandeleur would be 34 miles or about that. Furthermore it is contended that it is not in the strict meaning of the language as I understand it defining the boundary line of the State of Mississippi and Louisiana.

Q. You mean the line that is defined in the law?

A. Defined in the different acts creating the several States. It is not within the meaning of the English language as the boundary line reads.

Q. Mr. Heidenheim, you are familiar with the oyster industry generally in Mississippi are you?

A. Yes sir, that is so far as the oyster industry is concerned. I have only been in the marshes about six or seven times. I might have been out there ten or twelve times in the 18 years that I have been out there.

Q. When were you first out there?

A. The first time that I was out there was in the year after I came here. That was in 1886.

Q. When were you there last?

A. The last that I was there was about; I think it was about four years ago.

Q. Have you noticed any difference in the general configuration or conformation of the marsh territory between the time you first went there, and the last time you went there tell us what it was?

A. No sir, it has always been practically the same.

Q. You are familiar with the oyster and fishing industry generally down along the Mississippi shore. I would be glad to have

There were no restrictions there or nothing. There would be camps out there and a big pile of men living in them.

Q. A big pile of men living there?

A. Yes sir.

Q. At what time?

A. The first camp that was built out there was built by some Baltimore people that built a cannery at Pascagoula. They had their camps built at Cranetown pass.

Q. When was this?

A. The camps were out there before I went out there. They abandoned the camps just about the time I went in the marsh. In the '80's.

Q. Did they have a store there?

A. I don't know what all they had there. They had some big buildings there.

Q. Can you name some other parties who had camps and buildings there?

A. No sir, those are the only people that had any thing there.

Q. Did you know the Biloxi firm, later on that had a camp and store there?

A. That was put up after I was out there.

Q. What was the name of this firm Ondrons and Wensel?

A. I don't know anything about that.

Q. Did you ever know of any Mississippian from Hattiesburg who had a store established on Three Mile bayou?

A. No sir, I don't know any thing about it.

Q. Then I understood you that while it was claimed that the Mississippi line extended 18 miles south, you never heard or understood exactly where this territory terminated?

A. No sir.

By Mr. DYMOND:

Q. You stated in your redirect examination awhile ago Mr. Minor that in your personal opinion you thought that the attitude of the two oyster commissions in their conferences and in their contentions was more of a bluff than any thing else. That was your personal opinion simply was it not?

A. Yes sir, and I don't think any one else thought otherwise.

Q. If your judgment in that respect had been in error and if you had acted on your judgment that it was a bluff and had refused to enter into an amicable agreement would not it have been in your opinion rather a risky thing to do, to conclude that it was a

1754 bluff?

A. Well in my judgment it was the best thing that we could do.

Q. Well did you not think it was too serious to run the risk of calling that bluff?

A. What I mean by the word bluff; that what they were doing would not bind any body. It was just sorter laying down some

; where we were trying to keep out of any trouble that might

When you used the word bluff you did not intend to belittle eriousness of the condition, where ten men of intelligence were g to do the best they could under the existing circumstances?
No sir, I did not use it that way.

By Col. ZACHARIE:

Mr. Dymond may be more familiar with the terms of poker you are. He asked you if you did not think it was too serious ll the bluff. Did you not think it was such a serious matter you could not afford to test it, as to whether it was a bluff or
In other words you did not propose to carry out what you con-red your full rights for fear that there would be a collision of e kind?
. Why certainly I thought that was best for all hands was what lid. We did a good deal of bluffing before we got to that line. Louisiana people wanted us to go back further than what we and we wanted to go further south than what they agreed to, that is where we were doing the bluffing.

Redirect examination.

By Gen. MCCLURG:

Q. Now I want to ask you Mr. Minor with reference to these ffing games that were played down there. All of this blood and nder that was raised about armed conflicts and the like of that. t any time before these two commissions met in Mr. John Dy-nd's office in New Orleans and assumed legislative, judicial and ecutive authority; with all the powers of the army and navy and Government, if there had ever been a single act of violence?
A. I had never heard of any.
Q. There had never been a single serious contention between the ople of the two States that you can recollect out there?
A. No sir.
Q. And so this was gotten up and discussed. When they got wn there and talked about what might be done by armed patrol ats and the like of that. That was a regular bluff game. Is that t about the size of it?
A. Well the newspapers were full of it, and it was talked by the atmen that it did not matter whether Louisiana armed a boat and t it out there or not, but what they would go ahead and fish these sters.
Q. That is what Louisiana claimed?
A. The Mississippi boatmen. It was given out after this act was ssed in the legislature. The law claimed that they had the right arm vessels and keep any body out of the State, and these men ought that they had the right to go there.
Q. In all of this discussion by these two commissions was it ever

A. You can find it in the atlas of 1850.

Q. Whose atlas?

A. Now I think it is Collins' if I am not mistaken.

Q. Don't you know as a matter of fact Mr. Heidenheim that it was not until 1840 that this body of water got any name at all?

A. No sir, it was called Pascagoula sound prior to 1850, and then it was called after that Mississippi sound, and Lake Borgne was a part of Pascagoula sound. A sound is a body of water connecting the — with the deep sea.

Q. Will you please look at this map marked map No. 19, offered by Louisiana and state whether you see any Mississippi sound as given to the body of water now called by that name. The map being B. Lafond's map of 1806?

A. What I want to get is I told the gentlemen that I got my reference from Collins' map of 1850, and I have also looked up other authorities on the question, and for that reason, am of the opinion that maps as a general rule are very uncertain and unreliable. I am only giving you the information as I get it.

Q. Will you please look at the map of 1834 by L. Augustus Mitchell, and say whether you find south of Hancock, and Jackson counties and Harrison county, any reference to the name Mississippi sound?

A. As far as that question is concerned, my best recollection is all old maps have been made on that line.

Q. Well I am asking you the special question which you can very readily determine by looking on the map. Is there any name of Mississippi sound on this map No. 19 of B. Lafon's of 1806?

A. No sir.

Q. Is there any name on this map of Mitchell 1834, called map Louisiana No. 24?

A. No sir, but there is no distinction on this map as to whether this is the gulf of Mexico in there.

Q. Is there anything on this map of Graham & Tanner of 1834 giving the name of Mississippi sound to the body of water south of Hancock county?

A. No sir, but I would understand by that map that all of that body was Lake Borgne.

Q. Do you see any name Mississippi sound on this map of Tanner of 1837?

A. No sir, I do not see any on the gulf of Mexico there.

Q. Will you now look at Hardee's map of 1871 and state whether you see the name Mississippi sound there?

A. Yes sir, I see Mississippi sound on this map.

Q. This is the first time you have seen that word, and those words on the maps I have shown you cover the water in question does not it?

A. That is on the maps that you have submitted to me yes sir.

Q. This last map is Louisiana map No. 30?

A. Yes sir.

Q. Will you please look at Bailey's map of 1855, called map Louisiana No. 28, and state whether or not this body of water is under the name which we call Mississippi sound?

A. There is none here for the Mississippi sound and none for the gulf of Mexico.

Q. I am not asking you about the gulf of Mexico. That is voluntary information. I am asking you about Mississippi sound.

By Mr. McCLURG: He has a right to state it.

By Mr. DYMOND:

Q. Will you look at Schonberger's map of 1866, and state whether or not the body of water that we are discussing has any name?

1771 A. The body of water that we are discussing?

Q. Is it called Mississippi sound?

A. According to this map I would consider that all of the body of water in Mississippi sound from there way down to the southern part of Louisiana.

Q. Will you please answer the exact question Mr. Heidenheim yes or no and then explain afterwards. I am asking you the simple question what we now call the Mississippi sound. What it was called before it was marked on map of Louisiana No. 29.

A. Mississippi is marked on there. I suppose sound too.

Q. Is not that word sound there?

A. Yes sir.

A. And therefore 1866 is the earliest on which you have seen this?

A. There is Pascagoula bay mentioned. That is the same body of water. Mississippi sound is not mentioned there. That is 1834. The map of 1834.

Q. Will you look at map No. 25 and state what the name of the body of water is that is south of Jackson and Harrison counties in Mississippi?

A. Pascagoula bay. Map of 1834.

Q. That is your opinion as I understand it that this Pascagoula bay extends westward until it meets Lake Borgne?

A. Yes sir.

Q. And that Lake Borgne extends eastward until it meets Pascagoula bay?

A. They come together right here.

Q. Then Pascagoula bay passess all of these intervening islands and jumps over into Lake Borgne?

A. I will call this Pascagoula bay. A lake is a body of water surrounded by land. A sound is a body of water connecting the land with the deep sea.

Q. What is a bay?

A. A bay is a name given to any irregular body of water regardless of any other name.

Q. Well is — not a fact that Pascagoula bay is called Pascagoula bay there?

A. It is called that on that map.
Q. Is it not so called there today?
A. No sir.
Q. What is Pascagoula bay called there today?
A. It is called Mississippi sound. That body of water.
Q. Do you mean to say that around Round island and off Scranton and Pascagoula that is not called Pascagoula bay?
A. No sir, this is Mississippi sound.

By Col. ZACHARIE:

Q. Mr. Heidenheim, what time of the year was it that Governor Longino visited down here and you had that conference?
A. I think that it was in 1900 Col. Zacharie.
Q. What time of the year was it. What season of the year. Was it in the spring, or summer or winter?
A. It was during the late spring or early summer.
Q. Does your recollection correspond with that?
A. Yes sir, I think so.
Q. You were aware at that time there was a question in regard to the boundary?
A. Yes sir, that is what we asked him to come here for.
Q. You knew that fact prior to the appointment of the boundary commission in 1901?
A. I think it was prior to the time the commission was appointed.
Q. If it was in the spring or summer of 1901 it must have been six months at least?
A. Yes sir.
Q. You have attempted to give the definition of a sound?
A. Yes sir.
Q. Do not all of the lexicographers give the definition of a sound as being a species of *straight* or an arm of the sea?
A. It is in one sense of the word an arm of the sea.
1772 Q. Who was Collins and where did you find this map? We have gone through everything in the public libraries of the United States and we have never come across that name yet. Where can we find it?
A. I have it in my possession, and if you wish I can submit it to the attorneys. I think it is Collins' map of 1850. I think that is the correct name. It was printed in Philadelphia.
Q. We would like to see it.
A. I am almost sure that it is Collins. I can get it for you.
Q. Mr. Heidenheim, you have been the chairman of the Commercial Club hunting up evidence in this case have not you?
A. No sir, not exactly that. I will give you the particulars if you wish. The Commercial Club held a meeting and concluded that it would be advisable to appoint a committee on testimony. That is to get what names and other desirable matter that would be useful to the attorneys. It was not a question of evidence.

Q. Had you been investigating this question for some time prior to your appointment as chairman of this committee?

A. Well I have investigated this question off and on in various ways but not exactly bearing on this care.

Q. How long have you been investigating it back?

A. Well I have been reading up on the question directly and indirectly ever since I have been in the oyster business. Ever since 1885.

Q. You have a considerable interest in the State of Mississippi winning this case have not you?

A. Well I can not say that we have any more than any other person would have that had their money tied up in an investment.

Q. How much money have you tied up in that investment?

A. The Barrataria Company has two plants. One in New Orleans and one in Biloxi. The one in Biloxi has $125,000.00 tied up in it.

Q. It would be a considerable expense and loss to you would not it if you had to remove this cannery to Louisiana or discontinue the business?

A. It would be a considerable expense. It would not be a question of discontinuing the business.

Q. You would move to Louisiana?

A. I don't say that we would. We are going to start up in Louisiana anyhow.

Q. Then you have felt a great interest individually have not you in sustaining Mississippi's side?

A. Yes sir.

Q. Your committee advertised in the news papers did not it for evidence that would go to substantiate Mississippi's case?

A. There were notices in our local papers.

Q. Did you have interviews with these witnesses?

A. Not that I know of no sir. All that we did was to furnish the attorneys with a list.

Q. Well how did you know when you furnished these lists to the attorneys what the witnesses would testify to?

A. We only went this far. We got together, our testimony committee of five, and we would recommend what we thought were desirable witnesses, and this was put before the committee. If they thought they knew any thing they were added to the list, but if they thought they did not know any thing they would drop them.

Q. In finding out what these witnesses would testify to did you or did you not state what points you wanted to establish?

A. No sir, we just saw what the testimony we wanted was. We just merely wanted to have testimony from such people as knew any thing about this question and that is about all they were asked.

Q. Did you not specify what you wanted to know about this question?

A. No sir, no more than that they should know something about

the question, that is all. Not to burden them with any unnecessary testimony.

Q. Did you not state that you wanted to establish the fact that the boundary of the State of Mississippi extended 18 miles south of the shore line?

1773 A. No sir, I don't think that question came up at any of our meetings.

Q. Did you not state that you wanted to establish that these marshes over there were not called Louisiana marshes?

A. No sir, not that I know of.

Q. Then you handed these lists to these attorneys perfectly blind as to what these witnesses would testify?

A. Yes sir, in other words the attorneys did not take one fifth of the names that we handed them.

Q. But those that they did take you put them on there blind without knowing what they would testify to?

A. No sir, we did not know any more than if you want witnesses on jurisdiction these are the people, and if you want any on the islands, these are the people.

Q. I want to know how you came to give these names in. Do you mean to say that without knowing exactly what these witnesses would testify to you gave these names to the attorneys without knowing what they would testify to?

A. No more than we had our outlines made. We had read up decisions on boundary cases prior to this one. We knew from the ruling of the court about — circumstances would come up at issue, and we formulated our plans on that basis, and we said "These are your witnesses if you want to establish jurisdiction," or "These are the ones if you want old citizens that have fished out there. If you want them for this, or this, these are the ones you want."

Q. You did not know whether these witnesses would testify in favor of or against you?

A. No sir, we did not know anything about that.

By Gen. McCLURG: Counsel for Mississippi desires now to inform the counsel for Louisiana that the witnesses who testified on the part of Mississippi in this case were not trained, nor crammed, nor fixed, nor interrogated in any manner previous to being put on the stand in this case.

By Col. ZACHARIE:

Q. Then I ask you the question again, you in no way intimated to these witnesses, a list of which you gave to your attorneys, as to what you wanted them to testify to you?

A. No sir, this committee had nothing to do with any thing of that sort. They were merely to select the witnesses and that is all.

Q. Now Mr. Heidenheim, could you produce all of the correspondence that passed between you and Mr. McLean?

A. I think I can sir. I don't think there were more than about

wo letters. One asking for information and one he sent me addressed to Mr. Dymond. I don't think there was any more correspondence.

Q. You say that you met Mr. McLean the Congressman, some time afterwards. Did you ask him or inquire any thing about why you did not receive this report from the Coast and Geodetic Survey which was promised according to the letter that he sent you?

A. No sir, I don't think I did. I think that the correspondence ended with that letter. That is the best of my recollection.

Q. I am not speaking of the correspondence. I am speaking of when you met him afterwards personally as you say you did afterwards. Did you make any inquiry as to why you did not receive any report that he had notified you by letter that it was referred to the Coast and Geodetic Survey?

A. I don't think I have seen Mr. McLean sir.

Q. I thought you said in your testimony in chief that you met him when he was canvassing?

A. I think that was prior to this correspondence. He is not now representing us in this territory.

Q. Have you seen him since that correspondence?

A. No sir.

Q. You took no further steps to make any inquiry why
774 you had not received the report that was promised?

A. No sir, not as I remember.

Redirect examination.

By Gen. McCLURG:

Q. You have been questioned rather closely Mr. Heidenheim by counsel for Louisiana with reference to obtaining witnesses on the part of Mississippi, and especially whether you had conferred with them or not. I wish you would tell the commissioner whether you have directly or indirectly procured any false testimony in this case, and have undertaken to get any witnesses to testify to any thing except the truth as they understand it?

A. All I can say about that is that the testimony committee of which I was the chairman had the duty delegated to it, and that duty was merely to get the witnesses, and that was the end of their duty and not to ask them how they would testify or what they would testify to. The lists were handed to the attorneys. Witnesses in jurisdiction. Witnesses on this thing and on that thing.

Q. How were these witnesses selected. How did you select them?

A. They were given to us by the people in Biloxi and here and elsewhere, etc.,

Q. How did you select your witnesses?

A. We did not select any particular witnesses. We handed the whole batch in to the attorneys.

Q. What did you have?

A. I have the messages of Congress. I have the opinions deliver on these questions, and I have historical matter on this questio If you will come down there I will show you what I have got.

Q. That is nothing that you bought as a result of the meeting January 19th 1901?

A. I have some that I bought before and some since.

Q. Any documents?

A. No sir, no documents only what I have in my books.

Q. You have no documents at all?

A. No sir, no documents at all.

Q. Then you did not write to Washington to get data from Was ington in regard to this dispute?

A. Yes sir, I did and I am glad that you brought that up.

Q. As a result of this meeting on January 19th 1901?

A. Yes sir, I wrote to Mr. McLean.

Q. And you did not get any reply?

A. No sir. That is the queer part about it.

Q. Did not Mr. McLean transmit to you the document that got?

A. No sir, I never did get it. I wondered why he did not send it me. I never did get it.

Q. What was it?

A. I don't know any more what the contents of this docume were than the man in the moon. I did not know until I saw it the newspapers on the day of the trial.

By Gen. McCLURG:

Q. What trial?

A. On the day you were in New Orleans when you were takin testimony there.

Q. In April?

A. Yes sir.

By Mr. DYMOND:

Q. What I understand is, Mr. McLean, although he received t document from the Coast and Geodetic Survey at the department Washington, obtained at your request you never got that documen

A. No sir, I never got an answer or anything. I never knew an thing about it until I saw it in the New Orleans newspapers.

By Gen. McCLURG:

Q. Do you know anything about that document or that McLe got it?

A. No sir, I don't know anything about it. All I know is tha have a letter in my possession which reads "I received your let and will give the same my attention." I wrote to him to try a find out what he could on this boundary question so as intellig people we would know where we stood. That was the purpose o

and no other purpose. We understood that we had money
1766 tied up in that investment. As business people it was our business to know where we stood. I wrote that letter to him. I did not know anything about this matter until I saw it in the New Orleans papers.

Q. Mr. McLean is a member of Congress from the State of Mississippi?

A. Yes sir.

Q. Is not he the Congressman from your district?

A. He was at that time.

Q. Is he a member of Congress from the State of Mississippi now?

A. He is now, but he has been re-districted I think.

Q. Do you see him frequently?

A. No sir, the last time I saw him he was running for office. He was along here after that but I did not see him.

Q. Did you ever make any complaint to him about that fact?

A. No sir, I never heard any thing more of it and I thought that it was lost sight of.

Q. Did you ever see the reply that Mr. McLean got from the Coast and Geodetic Survey?

A. No sir, not until I saw it in the New Orleans papers. That is the first information that I had of it. I expressed surprise that Mr. McLean should get information asked for by me as an individual and others should get notice of it before I did.

Q. Did you know that a report was made by the Coast and Geodetic Survey to Mr. McLean on the 30th, of January 1901?

A. No sir.

Q. And 11 days after the meeting in New Orleans?

A. No sir, all the correspondence that I had with Mr. McLean I hunted up. It was "I received your letter and will give same my attention." That is the last that I heard of him.

Q. Have you got a copy of the original letter that you wrote to Mr. McLean?

A. I think I have and I think I have his answer. There was only a few lines between us.

Q. Can you give us a copy of the letter that you wrote to Mr. McLean?

A. I think I can get it. I handed it to Mr. McClurg and he did not think he would have any use for it. I think I can find it again.

Here the commission took an adjournment for the noon recess, to resume the taking of testimony at 2 o'clock.

1767 Pursuant to the adjournment for the noon recess the commission met at 2 o'clock, with the same present as this morning and the following testimony was taken, towit:—

Mr. Heidenheim requests leave to make the following correction in his testimony of this morning. In or about 1900 I remember that some oystermen come ashore and told me that there were some

officers of the parish of St. Bernard, they did not know whether it was the sheriff or whom, that had told some of the boats to keep off of that ground. I do not know what part of the ground they alluded to. There was an agitation of the boundary line about 1900, but as near as I can remember no boats, patrol boats, were put on the oyster ground until 1902. There was no contention and no unlawful steps taken by Mississippi. That these complaints were reported to the governor of the State, and the governor came here and had a conference with us and advised us to adopt lawful methods in bringing about a solution of this question.

By Mr. DYMOND:

Q. What was the date, Mr. Heidenheim, on which the governor came to this coast?

A. The governor came on our request.

Q. About when was this?

A. I think this was in 1900 prior to the time the boundary line commission was appointed.

Q. You therefore, now, as I understand it, correct your testimony to the extent that you no longer deny——

By Gen. MCCLURG: Counsel for Mississippi objects to counsel arguing with the witness. Let him ask him questions.

By Mr. DYMOND:

Q. That you *not* longer deny that there was a dispute as to the boundary line prior to the filing of this suit in 1902, and that you knew it?

A. I won't say it was a dispute. I say that it was an agitation. There was an agitation but no dispute.

Q. Well was not there a dispute in 1901 when the two governors appointed their respective boundary commissions?

A. I would not understand that there was really a dispute. It was to the extent that there was an agitation.

Q. Well will you please define for our benefit what you call a dispute?

A. A dispute is where two disagree. An agitation is a thing where some thing is just brought up for a final consideration or solution, is the way that is the way that I understand it.

Q. Well then you conclude that there was no dispute until Louisiana and Mississippi found that they could not agree through their amicable boundary commissions?

A. There was no dispute until the two had come up and brought the matter up for consideration. If there was such a thing as a dispute it was in 1901. That was when the boundary commission met. Prior to that I would not consider it a dispute. It was merely an agitation that brought this thing up.

Q. Well then you do admit as I understand it that the dispute originated as early as July 1901?

A. When ever the governor came on the ground?

Q. When the Mississippi commission said that they could not agree?

A. Exactly. As soon as they said that they could not agree I understood that there was a dispute.

Q. Was there a dispute prior to that?

A. Not that I know of, no sir.

1768 Q. Well then, if there was no dispute prior to that why was it that you wrote to Mr. McLean, a member of Congress in the month of January 1901?

A. I have already explained it. If you want it explained again I will do it for you.

Q. If there was no dispute why did you do it?

A. I wanted to be settled in our judgment as to the business proposition where we stood. That is the idea of it.

Q. That was after you had built your factory was not it?

A. Oh yes sir, but we are always making repairs and improvements, and I wanted to see whether we were justified in making any more or not. That is the idea.

Q. Will you please look at this document called Document No. 9, offered by Louisiana and examine this letter and state whether you are the same I. Heidenheim referred to in the letter of F. A. McLean to O. H. Tittman, Superintendent of the Coast and Geodetic Survey under date of January 27th, 1901?

A. I admit getting the letter from Mr. McLean addressed to Hon. O. H. Tittman.

Q. Are you the Mr. Heidenheim referred to in this letter that you are looking at?

A. Yes sir.

Q. Had you previously written to Mr. McLean?

A. Yes sir, I had.

Q. Have you a copy of the letter that you wrote to Mr. McLean?

A. I think that I could find that in my correspondence. In our correspondence.

Q. Will you produce if you can that letter, and your letter book containing that letter and bring it where we can get it?

A. I will try my best to get it for you. What is the date of that letter?

Q. That letter would be subsequent to the 19th of April, and prior to the 27th of January 1901. Now you will please look at the next document which is a letter from Mr. McLean to Mr. Tittman. Will you please state whether you have the original of this letter?

A. I have no such copy as this. This is the only letter that I have written to me by Mr. McLean. I have the letter written by Mr. McLean.

Q. Written by McLean to Tittman?

A. No sir.

Q. Is it not a fact that you have the second letter?

A. This is the letter that I have a copy of or the original. January 27th, 1901. Either the original or a copy of this letter.

Q. Of the letter written by McLean to Tittman?

A. That is the letter I have. Either a copy or the original.

Q. How come you to have the original of this letter after it became a part of the archives of the Coast and Geodetic Survey at Washington?

A. I think that Mr. McLean gave me a copy of it to show me what he had done. That he had sent this to Mr. Titman.

Q. Could not it be that Mr. McLean sent you the letter that he received from Mr. Tittman?

A. That is the one I never got. The letter of February 1st, 1901. I have no knowledge of receiving it. The original or a copy.

Q. Now will you look at the letter of February 8th, 1901, and state whether Mr. McLean ever forwarded you the original or a copy of that letter?

A. The letter of February 8th, 1901 I have no knowledge of to my best knowledge and belief.

Q. Now will you please look at this report of Mr. W. C. Hodgkins of the United States Coast and Geodetic Survey called Louisiana Document No. 11 and state whether or not Mr. McLean ever forwarded you a copy of this report?

A. That I never did get. To my best knowledge and belief I never got any letter from Mr. McLean addressed to Mr. Titman on January 30th, 1901.

1769 Q. You don't understand me. This is a report made by W. C. Hodgkins, assistant of the United States Coast and Geodetic Survey to O. H. Titman, Superintendant of the same department on January 30th, 1901. Have you ever seen this before?

A. To the best of my knowledge and belief I never saw that report before until I saw it in the Times Democrat.

Q. Will you please look at these blue prints marked sketches 1, 2 and 3, accompanying Louisiana Document No. 11, being the Hodgkins report, and state whether you have ever seen this before or any thing similar to it?

A. Oh, I have seen this report. It is embodied on these charts as I call them.

Q. I am asking you about the blue prints or similar blue prints?

A. You mean from Mr. McLean?

Q. Made by Mr. Hodgkins?

A. No sir, I did not receive any or see any made up by Mr. Hodgkins.

Q. These blue prints are attached to and made a part of Mr. Hodgkins' original report, and originally by tracings, and these blue prints made from these tracings. Have you ever seen the original tracing or blue prints made from them before?

A. I never received any blue prints or tracings from Mr. Hodgkins or Mr. McLean, and never saw any from that source before up to now.

Q. You say when you had your conference with Messrs. Bowers, Ford and White, that you did not have before you this report of Mr. Hodgkins?

A. No sir, we did not.

Q. And you did not know that Mr. Hodgkins as the assistant in the United States Coast and Geodetic Survey had suggested the information as his opinion on the request of the Congressman from Mississippi that the deep water channel was the proper boundary line between the States in this dispute?

A. I never have recognised the report of Mr. Hodgkins as being the boundary line.

Q. You think that Mr. Hodgkins' report is wrong?

A. Why certainly I do, as other experts have been before.

Q. Were you aware that when Congress created the State of Louisiana that she gave Louisiana all islands within three leagues of her coast?

A. I don't know that she has any islands three leagues from her coast. That is not the English language or the construction of the English language.

Q. I will repeat the question to you and ask you to answer yes or no and explain afterwards. Were you aware that when Congress created the State of Louisiana that she gave Louisiana all islands within three leagues of her coast?

A. No sir, I was not aware of the fact.

Q. When Congress created the State of Louisiana she used the following language. "And from thence along the middle of said river and Lakes Maurepas and Pontchartrain to the gulf of Mexico; thence bounded by said Gulf to the place of beginning, including all islands within three leagues of the coast."

A. Yes sir.

Q. Were you aware of that fact when you concluded that Mr. Hodgkins' conclusions were wrong.

A. I can only add on that question that from that language as embraced in the boundary line Mr. Hodgkins is undoubtedly wrong.

Q. For what reason?

A. For the simple reason from the reading of this boundary line I concluded from my judgment that Mr. Hodgkins is undoubtedly wrong. Taking the reading of the English language in this boundary line, and if there were any islands in this boundary line it was after the line got down to Sabine river to the place of beginning.

Q. Do you know what the body of water which we today call the Mississippi sound was called in 1812 at the time the State of Louisiana was created?

1770 A. Why undoubtedly I do.

Q. What was it called?

A. Pascagoula sound.

Q. What makes you think that it was called Pascagoula sound?

A. Because I have an authority on that question.

Q. Where do you find that authority?

A. No sir, there were only three maps there. The charts and this map that I spoke of, and some map that they had in some book. I don't remember what book it was.

Q. You are quite positive about that?

A. I am quite positive that is all that were there.

Q. Now at this point Mr. Heidenheim I again desire to take no advantage of you, and put you on your guard and expressly request you to refresh your memory before you answer the question as you have done before unless you are positive about what you stated.

A. I am positive that we were there and had that meeting with them.

Q. Did you have any other meeting with that commission or those members of that commission?

1764 A. No sir, we never met them after that.

Q. In which you submitted any other views that you had?

A. No sir.

Q. Well now did you have any other evidence or any other data on subject matter or reports on this subject other than what you have stated prior to the month of October 1902?

A. Certainly.

Q. What other data did you have?

A. In 1885 our company organized a factory here, and we conferred with counsel in Jackson Mississippi, and Gen. Joseph Davis who was our counsel here, and before we invested money in that corporation as business people it was necessary for us to be governed by intelligent legal advice, and we were advised at that time that the Mississippi boundary line was as it reads in that statute and as it was made by Congress, otherwise we never would have come here with this question hanging over us, with a doubt of getting it settled right and investing $75,000.00 or $100,000.00

Q. Then as I understand it the other data that you got was professional legal advice?

A. Yes sir.

Q. What I am anxious to ascertain is whether between January 19th 1901 and October 1902 you had secured any data on the subject matter of this dispute and had shown such data to the Oyster Commission of Mississippi other than what you have testified to just now?

A. Well the minute that this thing was agitated, I made it my business to become thoroughly informed, and my reading has been from that time on up to the present time, and that the knowledge we had before that time is as I have stated to you, being advised by counsel that this territory belonged to Mississippi, and knowing by the reading of the act that we understood it that way we came here and made the investment. Now of course after the question was agitated it became necessary to look into the question fully the same as we did any other question in which our business was involved.

Q. Well what did you do subsequently. What did you do if any

ing subsequent to January 19th 1901 as a result of this meeting hich was held in the city of New Orleans prior to the appointent of the commissions on the part of the State of Louisiana and e State of Mississippi on the subject of boundary?

A. I won't confine myself to dates——

Q. I desire to know specifically about it. I desire that you conne yourself to dates and noticing dates answer the question careilly, fully understanding the question as propounded?

A. What I want to get at is this. I might say some thing happened in 1901 that happened in 1902. I can refresh myself from y books. I don't mean to cover 40 or 50 years. It was all in the nge of a few years.

Q. If there be any desire on your part to refresh your memory ou may do so. I don't want to take any advantage of you. As e will now adjourn for luncheon I will give you a chance to refresh our memory?

A. What is the question you want directly, and I will answer it r you.

Q. I want to know whether subsequent to January 19th, 1901 you ok any step to get any data concerning this controversy and if so hether you submitted that data to the Mississippi Boundary Commission?

A. Well the only thing that we submitted to the commissioners, hey went to New Orleans. There were the oyster commission, and ne as I understand it was the boundary commissioners. Now when he oyster commission went to New Orleans, we had spoken to them f the same thing. There was nothing except what we have spoken o the other people, only we spoke to them and told them that is Mississippi's contention under the law, and we understood that it as their duty to hold out for that contention. That is all of the onversation that we had with them.

Q. I do not desire to know any thing about your confer-765 ence with the oyster commission. What I desire to know is in regard to your conference with the Boundary Commission f Mississippi and confining it entirely to them I desire to know whether you submitted to them any data or documents, which you ourself had obtained, and if you did not whether you had documents that you did not submit to the commission?

A. We had nothing to do with the boundary commission except hat one conference in Mr. White's office which the record shows.

Q. You did not submit to them any documents other than what ou have mentioned?

A. No sir.

Q. You had no documents which you had obtained other than what you submitted?

A. I won't say that I did not have any. I might have had them n my library.

Q. Did you have any documents there?

A. Certainly I had them in my library.

Q. How was he ejected?

A. He was ejected from the state house in this way. General Ames, who was at that time a young man and whose training was that of a soldier, was appointed military governor, and he sent up an officer and some men to request Governor Humphries to vacate the office in the state house, and the governor declined to do that, and then he sent up I think an officer and four men to exclude him. The governor looked at them and he told them that they were insufficient to take charge of his office, and they asked him what number of men would be required, and he said that he would be the judge of that when they came. Afterwards the men under an officer came to the governor's office and demanded the office. They came in the office and the governor walked out to the attorney general's office, and they made no objection to that, but when he came back they stopped him with their bayonets, and told him that he could not go in there, and he was ejected then from the mansion subsequently. Well from that time on, between those dates and while Senator George was chairman of the executive committee; he succeeded me as chairman of the Democratic executive committee. I came over here. I was living at that time in Brandon, and I was on my way to make a speech I think in Brookhaven. I was stopped by some
1785 of our friends and they stated that a citizens' meeting had been held, and that 16 persons had been appointed to wait upon Governor Ames. At that time the negroes were drilling I suppose less than half a mile from the capital, over there at the southern part of the city. Every thing was in a very bad condition at that time. The object of our people was to save a conflict if possible. They waited on General Ames with that view, and after discussing the matter for some time it was agreed: General Ames had ordered arms to different parts of the State. In —— county and some other places if I remember right. Our people desired that the arms that were in the hands of the negroes at that time should be turned over to the United States officers, some of whom were here. Governor Ames was very slow to do that, but in the end it was agreed to. That brought about some peace and things went on that way until 1875, when the people of the State succeeded in the election, and when the election was upheld Governor Ames was brought to trial, and the house returned quite a number of charges and specifications against him. There were probably 15 or 20, and during that time his father in law, General Butler, sent attorneys here. And pending the matter General Ames had his attorneys to state to those who were in charge of the matter, gentlemen who were appointed by the house of representatives to bring in the charges and specifications; Governor Ames' attorneys stated to them if they would withdraw them he would retire and resign his office, which he did and left the State and has never been in it since. Subsequently the lieutenant governor stood his trial and was convicted.

Q. Who was the lieutenant governor?

1786 A. The lieutenant governor was a man by the name of Davis. A negro.

Q. He was a negro lieutenant governor?

A. Yes sir, he was a negro lieutenant governor. But to return back to the maps, I will say that I was no more impressed with the transaction about the maps than I was with any other occurrence at that time. I knew Captain Hardee agreeably and met him frequently, or I saw him occasionally.

Q. Did you know him as a cartographer or a maker of maps?

A. No sir, the most that I knew of him was that he was a nephew of General Hardee, but I knew nothing about what he did or what his avocation was, or what his profession at all was until I saw the maps. There was a good deal said about Hardee's maps.

Q. It is the integrity of the map we are assailing, you understand, We want to get into the record the conditions under which it was made that the court may estimate its value in this matter. I want you to go forward Governor and tell us about the map. The second map. Wall's emigration and statistical map. What you may know of that?

A. Well now sir that seems to have been approved on March 8th, 1882.

Q. You were governor at that time were you not?

A. I was governor at that time. Prior to that time there was a negro that was commissioner of emigration. The negro lived in Issaquena county. I knew him. The fact is I was elected to the legislature. I might remark there that I am a member of the State senate from my district, and I had resigned and I thought I was graduated in that line. After my resignation I believe the next year I was

1787 canvassing with Governor Alcorn. I was elected to the legislature from my county, the lower house. I knew this man. The negro commissioner of emigration. It seems that in 1882 Mr. E. G. Wall, who was a Confederate soldier with one leg. He had lost a leg in the army. They had him elected. And like the other commissioners he published a map. It was approved by the legislature. He published a map and I suppose his object was to get as many people here as he could. He was trying to get emigrants I took it. So far as I know Mr. Wall was about here. He never went away I reckon. If he was ever down in the locality that you speak of in your pleadings I have no knowledge of it. I have no idea that he was though. He simply got up a map in which the main object was to give his views about emigrants and where they could come. I don't know any thing else as to its accuracy. I don't know that any body paid any attention to it.

Q. I want to ask you the general question Governor. In addition to the general conditions stated by you under which these maps were made, what bearing according to the maps themselves—we have them here and will show you the maps if you would rather see them. We are taking it for granted that you are more familiar with the conditions than you are with the face of the maps——

By Mr. DYMOND: Objected to by counsel for the State of Louisiana on the ground that the witness has not qualified himself to speak authoritatively on this proposition, and it is purely a matter of opinion to which he can not testify.

By Mr. MCCLURG:

Q. Go ahead Governor and tell what effect those maps have
1788 made under those conditions upon the boundaries in the waters of the Gulf?

A. Why as far as my view is concerned I will state that I don't think they are of any value. I don't think they received any more attention from the people of the State than any other matter that was being enacted at that time.

By Mr. DYMOND: It is understood that the same objection is made by the counsel for Louisiana to all similar testimony of this character.

A. That is my view of it, as I have stated.

Q. Do you have reference to the Hardee maps and the map of Wall both?

A. Well as I stated—I want to make myself understood as far as Captain Hardee is concerned, because I remember him very kindly. But I don't think that the maps of Captain Hardee at that time received any consideration any more than any other act that was made by the legislature, which was composed largely of negroes and radicals, and foreigners and strangers to the people of the State. There were a very few of our people there is my recollection. I say this without any discredit to the maker or the author of the map, but I don't consider that any more than any other act that occurred at that time; nothing at that time received any consideration, because it was a period in the history of Mississippi when the people were struggling for a government under which they could live. That is the way that I understand it.

Q. Are you a native Mississippian?

A. No sir, I am not.

Q. How long have you lived in Mississippi?

1789 A. I have lived here almost all of my life. I was born in Chesterfield district, South Carolina, but my father left there before I recollect any thing about it.

Q. I wish you would state to the commission what positions you have held in this State?

A. I have been a member of the lower house of the legislature, and I have been a member of the State senate, and governor of the State for eight years.

Q. And you have had some military prestige have you not?

A. Well yes sir, I was in the army from 1861 to 1865. I went out as a private in Company B., Sixth Mississippi regiment, and I was appointed; was elected colonel of the regiment afterwards, and was then appointed brigadier general.

Q. I asked you that question Governor in order that the supreme court might understand that you are familiar with those conditions, and ask it with the purpose of making the most of it before the court for our State of course. Now I want to ask you another general question in view of your long life in the State and in her service with reference to her boundaries in the Gulf. It is alleged in the bill of complaint filed by Louisiana against our State that the true boundary between them is the deep water channel flowing out of the most eastern mouth of Pearl river, north of Half Moon island and to the south of Cat island, to the north east of Isle à Pitre through Chandeleur sound into the gulf of Mexico. Mississippi's contention substantially stated is that the acts of Congress admitting these two States into the Union, Louisiana in 1812 and Mississippi as you know in 1817 definit-ly fixed the boundary, and that Mississippi has jurisdiction and sovereignty according to these acts and
1790 under the constitution framed by her pursuant to the act of Congress admitting her, six leagues or 18 miles from her shore, and every part of her shore, including all islands within that reach.

If you have anything to say with reference to the exercise of sovereignty and jurisdiction by our State over the waters and islands within the limits that I have mentioned I would be glad for you to state it to the commission?

A. Replying to that I will simply state that I have never given the subject embraced in that question any special consideration, but my understanding has been that Mississippi had jurisdiction according to the act of Congress stated in the question. That has always been my understanding and as far as I know the understanding generally of the people of our State.

Cross-examination.

By Col. ZACHARIE:

Q. General, did you know either personally or by reputation Captain T. S. Hardee prior to the Civil war?

A. No sir I did not.

Q. Have you ever heard or did you know that prior to the Civil war he was one of the assistant engineers with Hazlehurst that run the Jackson and Great Northern railroad?

A. No sir, I did not know Captain Hardee prior to the war, nor did I know what his profession was.

Q. You therefore did not know that he was a resident of
1791 the Yazoo district engaged in planting operations in partnership with Gen. Wirt Adams?

A. I did not, no sir.

Q. You first knew him in the army?

A. My recollection is that I have seen Captain Hardee in the army. I knew his uncle very well, General Hardee, but I could

not say that I remember to have met or known Captain Hardee during the war, but I suppose I did.

Q. Did you know Captain Hardee on the staff of his uncle General Hardee as an engineering officer?

A. I did not. I will state in connection with that Colonel that I was in General Hardee's corps, and I was in his corps at the battle of Shiloh, but after that time upon the re-organization of the army generally I was not in General Hardee's corps, but I often saw him and I knew as well as a younger man would a gentleman of his prominence and age at that time, but I have no recollection of Captain Hardee.

Q. You don't remember Captain laying out—while you were a member of Hardee's corps, laying out the military lines and the engineering work?

A. No sir, I will make a further statement so that you will understand. As I stated before Mr. McClurg, I went into the army as a private, at the organization of the regiment in Tennessee, the regiment was made up in this section right here, and they organized later at Union City or Trenton probably. No, they organized at Grenada. I was elected major. Our lieutenant-colonel was sick and I was acting lieutenant-colonel at the battle of Shiloh, and was wounded there as the colonel was. He did not return to the army and I was elected colonel, and after that time it was reorganized, and at that time occupying the position that I did I knew a
1792 little of who was on the staff of this man and the other you know, but very little, and I suppose that accounts for my not knowing Captain Hardee.

Q. Do you *you* know or can you remember whether Captain Hardee was not promoted to major of engineers, and subsequently lieutenant colonel of engineers in the Confederate army.

A. No sir I do not.

Q. Do you know where T. S. Hardee resided after the civil war?

A. That conversation we had this morning has recalled to my mind, while we were talking about Captain Hardee, that after the war he at one time lived down on the I. C. railroad about Chattawa or some where down there. I don't know that to be a fact but that is my recollection that he was down about there some where.

Q. Do you know what his politics were?

A. I do not. No sir, I do not.

Q. He figures upon this map as State engineer. Was not he appointed State engineer by Governor Alcorn?

A. I can not tell you that Colonel. I will answer that a little further there. Whether he was appointed by General Alcorn or not I don't know for I had but little intercourse with Governor Alcorn or any of his people at that time you understand, and I did not know what was going on much. I was generally against the whole business you know.

By Gen. McCLURG:

Q. What do you mean by any of his people?

A. I mean the negroes and the carpet baggers as they were called at that time you know.

By Col. ZACHARIE:

Q. From what you know of Governor Alcorn outside of
1793 politics, was not Governor Alcorn known as a man of integrity and high personal character. I mean outside of his politics?

A. Yes sir, well I would like to answer that question in my own way if you will allow me Colonel. General Alcorn, prior to the war was a Whig. An able man and a man of large property and very highly regarded by his party. The secession convention elected with General Clark and General Van Dorn and some one else—the major general was President Davis, and there were three or four brigadier generals. General Alcorn was one of them. General Alcorn went into Kentucky as I understood it, I saw some of his people up there, and remained some sixty days or three months. I don't know how long. At all events he came back I think having some difference with Mr. Davis.

By Gen. McCLURG:

Q. You mean President Jefferson Davis?

A. Yes sir, President Jefferson Davis, believing as he did that the president should appoint him as brigadier general in the Confederate army as I understood it. He was not appointed, and after the war General Alcorn believed, it was a theory of his that the white people should take charge of the negroes, and that he could take them from the radicals or carpet-baggers as they were designated then. And General Alcorn announced himself as a Republican, and he took in charge and did have control for a long time, and he had more influence in the State with the negroes than any one else. I believe myself that personally, in all personal matters that General Alcorn was a man of integrity. I believe furthermore that he had convinced himself that the negroes could
1794 be influenced and that he could take charge of them and he would hold his leverage, and with the old Whig party in the State to follow him; that they would go with him. And he made that effort and it failed, and he had such an influence with the negroes and carpet-baggers that he held it for a time and was elected governor. General Alcorn's great ambition was to go to the United States Senate. I don't believe that General Alcorn wanted to oppress the people of Mississippi if he could avoid it, and evidently, from my standpoint, when he found he could not take the white people, the old Whig party with him, that he intended to take the negroes and make the most of it, and he did go to the United States Senate by their vote.

1776 Recross-examination.

By Mr. DYMOND:

Q. As I understand it Mr. Heidenheim, you concluded that if you can not get your oysters from south of the deep water channel which Louisiana claims to be the boundary that your factories here would suffer. Is that your idea?

A. That is not the question as I understand it. What would be the commercial losses to the territory is what I understand the question. The commercial losses to the territory would be as I stated $100,000,000.00, taking it all in all.

Q. Following it right down to its last essence. That is I understand it in your opinion what would result?

A. That would result.

Q. Because Mississippi could not get oysters out of the Louisiana marsh and what is now the neutral territory, if her claims are maintained by the decision of the Supreme Court of the United States?

A. Well now for a fuller answer to that question. Is the channel line supposed to be the one that you are figuring on?

Q. Yes sir? We have since the beginning claimed the deep water channel to be the boundary between the two States. Now that deep water channel emerges from the mouth of Pearl river and runs through Mississippi sound, south east through Cat Island channel, between Cat island and Isle à Pitre, north east of Chandeleur islands into the gulf of Mexico?

A. Then I would understand that the commercial losses from all sources directly or indirectly bearing on the oyster question would in 25 years amount to $100,000,000.00.

Q. That is if you were excluded from that territory, that is the loss that would result?

A. Yes sir.

Q. Now is not that on the assumption that there would be no development of the very great water area that is open to Mississippi and lies right in front of the Mississippi coast?

A. There would be some development, but it would be nothing compared to what it would be if there was a favorable report in behalf of Mississippi.

Q. Let us suppose Mr. Heidenheim that the Mississippi oyster law was changed so as to permit the private ownership under laws or otherwise of our bottoms in extensive reefs in the undisputed territory belonging to Mississippi. If such a law as that was passed would it not tend to increase the oyster production of Mississippi and diminish the losses which you think now might result?

A. Well the oyster packers prefer not to lose the ground. As to whether or not that territory could be benefitted, it would be very slow, and I doubt if the conditions which now exist could be reestablished in 25 or 50 years.

Q. Do you mean to say that it would be impossible to successfully cultivate oysters in Mississippi sound on any ground?

A. Well we know that the oysters won't grow on all ground. The grounds in our territory are not suitable to grow oysters, and the progress would be very slow.

By Gen. McCLURG: This is all objected to by counsel for the State of Mississippi on the ground that is is a mere proposition calling for an estimate by the witness to suppose future contingencies that are merely possible.

By Col. ZACHARIE:

Q. Mr. Heidenheim will you please examine the last three pages of Mr. Heidenheim's report, Document No. 11, and which are headed Boundary Appendix 1, 2, and 3, and see if you had received that document or appendix, whether it would not be the records which you were after. Upon which he based the report?

A. I don't think it would be what I would want from the fact that I do not take much stock in maps.

1777 Q. What records did you expect to get except the old maps, surveys and so on which were in possession of the department at Washington?

A. I would prefer to rely upon original treaties, acts of Congress and some thing more substantial than maps which are colored to suit individual desires of the parties. Of the lexicographers.

Q. You mean the cartographers?

A. Yes sir, the cartographers.

Q. Mr. Heidenheim, are not the treaties that you spoke of accessible in any library?

A. There are treaties and acts of the different governments.

Q. Are they not accessible in any public library?

A. Yes sir.

Q. Why did you apply to the department at Washington when these maps and acts of Congress were accessible almost any where. Was not this the sort of information that you wanted. The maps?

A. For the simple reason that when I applied to Mr. McLean I did not understand that getting information in reference to what he knew about the boundary question of Louisiana carried with it only what was available in the geodetic department of the Government but what might be available from any and all sources that might give me an intelligent idea of the conditions pertinent to the boundary line.

Q. Did you not understand that in this report and in these lists of maps and surveys that Mr. Hodgkins consulted every thing that was in every department in Washington?

A. Every thing that he thought would be useful without going into a very long and detailed search.

Redirect examination:

By Gen. McCLURG: You wrote for the official records and you got a sub's opinion?
A. Yes sir.

It is admitted by the counsel for Mississippi that the large map made at their request by A. T. Baldwin computer of the Coast and Geodetic Survey, Washington, D. C., made in the Department of Commerce and Labor in the Coast and Geodetic Survey, June 8th, 1904, styled a photographic reproduction of the composite chart, with the red line, purporting to mark the boundary between Louisiana and Mississippi as shown on said map, and the tinting in colors of the territory within the said boundary line do not appear on the original from which the copy was made, but that said red line and tinting of the entire map were made at the instance of the counsel for the State of Mississippi, and that the quotation from the act of Congress of March 1st, 1817, found in volume 3, page 348 of the Statutes at Large, pasted to the lower right hand corner of the said map, and the statement in relation thereto, was not on the original from which this map was made but was affixed thereto at the request of counsel for Mississippi, and that the certificate attached thereto on the upper right hand corner may be considered modified accordingly.

The commission here adjourned its sitting at Bay St. Louis, and by agreement to meet at the capitol in Jackson Mississippi on Thursday, August 18th, 1904.

1778 Supreme Court of the United States.

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI.

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1780 JACKSON, MISSISSIPPI, August 18th, 1904.

Pursuant to agreements heretofore made and to adjournment at Bay St. Louis Mississippi on August 10th, last, the commission on the part of the State of Mississippi to take testimony in the case of The State of Louisiana against The State of Mississippi, pending in the Supreme Court of the United States, met at the attorney general's office on this the 18th, day of August, 1904.

Present: Hon. William D. Bullard, commissioner on the part of the State of Mississippi. Hon. Walter Guion, attorney general of the State of Louisiana, and Hon. Frank C. Zacharie, and Hon. John Dymond Jr., associate counsel on the part of the State of Louisiana.

Hon. William Williams, attorney general for the State of Mississippi, Hon. James N. Flowers, assistant attorney general, and Hon. Monroe McClurg associate counsel for the State of Mississippi, and Frank M. Peyton, official stenographer.

By agreement the commission adjourned until 9 o'clock to-morrow morning.

JACKSON, MISSISSIPPI, August 19th, 1904.

The commission met this morning pursuant to the adjournment of yesterday, and there were present Hon. William D. Bullard, commissioner on the part of the State of Mississippi. Hon.
1781 Walter Guion, attorney general of the State of Louisiana; Hon. Frank C. Zacharie and Hon. John Dymond Jr., associate counsel on the part of the State of Louisiana. Hon. William Williams, attorney general for the State of Mississippi, Hon. James N. Flowers, assistant attorney general, and Hon. Monroe McClurg associate counsel for the State of Mississippi, and Frank M. Peyton, official stenographer.

The following testimony was taken to wit:—

Gov. ROBERT LOWRY, a witness introduced on the part of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLURG:

Q. General, you are one of the ex-governors of the State of Mississippi?

A. Yes sir.

Q. When were you governor of the State General?

A. I was elected in 1881, and inaugurated in January 1882, and was governor for eight years. Until 1890.

Q. I believe you are also one of the authors of a history of Mississippi?

A. Yes sir.

Q. This case, General, of The State of Louisiana against The State of Mississippi, is a suit involving the boundary between the two States in the waters of the Gulf. Among the pleadings is a general replication by the State of Louisiana to the answer and cross bill of the State of Mississippi, responding to the original bill of
1782 complaint filed by Louisiana. In this replication to our answer and cross bill I find on page 6 a reference to Hardee's geographical and statistical map of Mississippi, embracing portions of Tennessee, Alabama, Louisiana and Arkansas, promulgated in the year 1868, and the second edition in the year 1872; also reference made to the map made under the direction of E. G. Wall, the State emigration agent in 1883. Those maps are pleaded by the State of Louisiana and sought to be made effective in establishing the boundary set up in her bill of complaint, which is to state it to you in a general way, the deep water channel, and what is marked on the United States maps as the sailing line out of the mouth of

Pearl river, northeast through Cat Island channel, Chandeleur channel and into the Gulf proper.

We will be glad to have you to state to the commission, Governor, what you may know about the maps of 1868 and 1872 and 1883 to which I have called your attention, so far as they may relate to the issues involved between these two States as I have above indicated and with which you are doubtless somewhat familiar. Please answer this question in your own way, not forgetting to let the commission know the conditions under which these maps were prepared and promulgated?

A. Well personally I know a little of the first maps of which you speak. The maps promulgated in 1868 and 1872 — made by Captain Hardee.

From 1868 to 1872 the State was in the hands of what is known as the Radical party, it was during the radical regime. A large number of negroes were members of the legislature. The
1783 people with property in the State, property holders, did not have much to do with the Government. I remember seeing a map prepared by Captain Hardee at the time. My recollection is that some one sent me one. I was then living at Brandon. What became of it I do not remember. I have not got it now at least. I would like to state here that I knew personally Captain Hardee, and I have served a time in the war under his uncle General Hardee, and I met with the Captain frequently, but what induced this map and how it came to be made at that time, or for what purpose except to sell I don't know.

As I say, our people, and I mean by that the property holders of the people of the State, the home people, had little to do with the Government. Up to 1875 when our people were driven to desperation almost: taxes had become so burdensome as to amount to confiscation almost, and the amount of lands that were forfeited for non payment of taxes was very great, I can not recollect the amount now, but it has been stated perhaps in the papers at that time. I remember so many circumstances about it, that the conditions so far as the most of our people was concerned, that they were trying to get a government under which they could live, and that they did nothing but to try and prevent taking money from the people by the legislature any way they could do it. I recollect that the public printing for one year during this time and perhaps two years was immense. Probably six or eight or ten times more than it should have been. I don't remember what it was. I recollect that during that regime there was an amount taken out of the treasury, which our people very much regret now, for a monument to a negro that
1784 stands out here in the cemetery. A monument to a negro that died, Jim Lynch, paid for out of the treasury of the State. Expenditures, which I conceive were robberies, at that time, were beyond what any one would suppose now. It exceeded anything that I ever knew. After one of the governors, Governor Humphries was ejected from the mansion——

Q. What I mean is this. They were gotten with reference to being oystermen and old sailors or what?

A. The list was submitted in this way. We first went to work and got up witnesses as to old oystermen that were in this territory and that knew some thing about the question at issue. The list was made up, and then the list was gotten up on such matters as we thought would be useful on jurisdiction, and then we had other witnesses that we thought might be useful in the way of furnishing old maps and some thing on that line.

Q. Were there any of these witnesses ever interrogated before they were put on the stand under oath?

A. No sir.

Q. Now I want to ask you about this McLean correspondence. I see by Document No. 9 offered by the State of Louisiana on the 13th, of April 1904, a copy of a letter written by F. A. McLean to the Hon. O. H. Tittman, Superintendent of the Coast and Geodetic Survey at Washington in which Mr. McLean quotes from your letter to him as follows "Give us all the information on record at Washington bearing on the question of the boundary line between Louisiana and Mississippi." Mr. McLean adds "I think he," meaning you, "only wants that information pertaining to the boundary line at or near the coast." That letter is dated January 27th. 1901, and the answer to it on February 1st 1901 by Mr. Tittman to Mr. McLean says that the information in regard to the Mississippi and Louisiana boundary asked for in his letter of the 27th ulto., has been collected and will be sent to McLean as soon as it can be put in the proper form, probably next week, and that on February 8th, Mr. Tittman wrote Mr. McLean that he sent him a report of three sketches showing information that he had been enabled to obtain in this matter, and he adds "Like all boundary questions much is left to be desired on the score of a clear definition of the original acts." And in connection with that letter Louisiana has introduced these blue prints marked Document No. 11, to which we find at-
1775 tached, not any records as called for by your letter to McLean, nor by McLean's letter to Tittman, but a lengthy opinion by one W. C. Hodgkins, an assistant in the Coast and Geodetic Survey. But no records at all that you called for. Are those things all you know about that matter?

A. All that I know about it is what I have previously stated, and I might add that I was not authorized to act for the State of Mississippi in asking for this information. It was an individual inquiry.

Q. In your letter you ask for records bearing upon this question?

A. Yes sir.

Q. Have you ever gotten any of the records?

A. No sir.

Q. You have never seen any thing except the voluntary opinion of Mr. Hodgkins have you?

A. No sir. That is all. And I saw that in print in the New Orleans papers.

Q. Do you know whether this is the same Mr. Hodgkins that ote this letter that testified in New Orleans in this case?
A. No sir, I don't know him at all. I never saw him or heard of n until I saw his name in print.
Q. I understood you to state that the Barrataria Company had out $125,000 invested in this State?
A. Yes sir.
Q. Could you state about what the Lopez & Ducate Company ve invested?
A. In Biloxi?
Q. Yes.
A. You mean in the canning plant or altogether?
Q. I mean in the fish and oyster business?
A. In the fish and oyster business, I would say about $225,000.00 $250,000 including boats etc.
Q. What other concerns in Biloxi have investments?
A. There is the E. C. Joullian Packing Co., and the Biloxi Canng Co. and the William Gorenflo Canning Co.
Q. Is there any other industry there engaged in the fish and ster business?
A. The whole Gulf coast is directly or indirectly engaged in the dustry.
Q. If the jurisdiction and sovereignty of the State of Louisiana ould be established according to their claim in the original bill, arked out on Exhibit E, filed with the bill and introduced in stimony in this case, showing that it would strike the Mississippi ain land some where about Pass Christian I believe, what effect ould that have upon the commercial interests of the State of Mississippi.

By Col. ZACHARIE: To which the counsel for the State of Louisiana object and except on the ground that *as to* the consequences or esults of any decision in this case are irrelevant, and it has no earing on the question at issue. The question simply being one f the location of boundary, and no question being involved as to hat would be the consequences or results to either side.

By Mr. DYMOND: And counsel for the State of Louisiana further bject and except on the further ground that Exhibit E, simply sets orth the deep water channel, running from the mouth of Pearl iver eastward, through Cat Island channel to the gulf of Mexico.

A. Well now to give you some idea of what the loss would be; when I came here Biloxi had 1200 population and today she has 7500 or 8000. The other places on the sea shore have equally grown directly or indirectly by this industry. The industry is in ts infancy and in my opinion if we would consider time, depreciation of real estate, and other commercial conditions that now exist that would be disturbed in the present and future that I could safely say that the losses would be over $100,000,000.00 in the space of not over twenty five years.

A. Yes sir, that is my recollection.

Q. Now General as I understand it you have been placed on the stand as a witness to testify as to the two maps of Hardee and Wall in the idea that they were begotten in the evil days of Mississippi's history and therefore not much reliance was to be placed in them. Is that correct?

A. My testimony has been to that effect. I don't know whether I was called for that or not.

Q. If there were shown to you the maps that were the children of better times in the Democratic period immediately preceding
1807 the reconstruction *area* or following the reconstruction era, after the Democrats and better people had gotten into the government of Mississippi, would that affect you in your conclusions as to the weight to be given to the maps as evidence in this case?

A. If you were to show that it came in before or afterwards. Is that the idea?

Q. Both. The first map, the Hardee map was the creature of the period when Humphries was governor, and the Wall map was the creature of the time when you were governor, would that affect your conclusion as to the weight to be given to the two maps as evidence?

A. If one map was to come in during the time that I was governor?

Q. And the other map was at the time Humphries was governor?

A. Yes sir.

Q. Would they have any better standing in your estimation than if they were the creature of the evil days of Mississippi's history?

A. I take it for granted if the appointment was made, the map of 1871, had been made in 1882 or 1888 or 1890, that I would consider myself that it was a map then made by the people of the State. The better people of the State.

Q. Suppose it was proven that the Mississippi map of 1866 was made by Hardee, and that it was made in 1866 at the time that Humphries was governor and before the reconstruction period. What would you then say of that map?

A. Well sir, I don't know. The only answer that I can give to that. If the map was made in 1865 or 1866 when Governor
1808 Humphries was governor, if there was a legislative act appointing some one to make the map at that time, and if afterwards the map was made at the time I have spoken to you of, I would give it about the same respect that I have told you here in my testimony.

Q. Well General I desire to read you and I desire the stenographer to take down the message of Governor Humphries dated October 16th, 1866 directed to the senate and house of representatives of the State of Mississippi which reads as follows. Page 17, House Journal of Mississippi 1866 and 1867.

"A State map.—I deem the publication and distribution of a

State map to the various State and county officers, whose business requires the possession of one, a matter of sufficient importance to call your attention to it. It should contain a correct delineation of everything of importance and information that it can embody, and be a reference not only to our officials but to all persons interested in the affairs of the State, whose correctness should settle all doubts on any points or subjects it embodied. I don't believe it can be published without some pecuniary aid from the State, which expenditure would be more than repaid to the State by the benefit its publication would give it. Nearly all of the old maps were destroyed during the late war. They were published nearly thirty years ago. Since then changes have been made and improvements have taken place of such a character as to render a new map, even an indispensable necessity, that is one — which we stand in very great need." That is an extract from a message signed Benjamin G. Humphries, dated Executive mansion.

I now read to you General from the Laws of Mississippi 1866 and 1867, chapter 17, page 27 as follows:—

"An Act to Create the Office of State Engineer for the Pur-
1809 pose of Compiling a New State Map under Certain Conditions.

SECTION 1. Be it enacted by the legislature of the State of Mississippi. That the governor is hereby authorized to appoint a State engineer, whose duty it shall be, under his direction to compile a geographical, historical and statistical map of the State; said map to be not less than five feet by three feet in size, to contain such information, as the governor in his judgment might deem necessary, and the publication to receive his sanction and approval.

SECTION 2. Be it further enacted, That the said engineer thus created shall continue in office for the period of 12 months from the date of his appointment, and shall receive no regular salary or compensation for his services, and shall be bound by the terms hereafter to be made as part of the provisions of this act.

SECTION 3. Be it further enacted, That the copy-right of the said map shall be vested in the State engineer and he shall receive from the State on the completion of the work the sum of twenty dollars ($20.00) per copy for each map, to be furnished as per schedule and filed, for the purpose of assisting in the expense of engraving and publication, and the said engineer shall be required to enter into an acceptable bond of security in the full sum to receive for and deliver to the State without further compensation than that which is hereinbefore provided, of such a number of the copies of the said map, for the use and benefit of the said State as will carry out the following schedule for distribution, viz: the secretary of state to whom the maps will be delivered shall cause three copies to be furnished to each county in the State, to become the
1810 property of the said counties, and for use respectively in the offices of the sheriffs, and the circuit and probate clerks, at

each county site in the State. He shall also provide the different State officers at the capital, each with a copy, and six copies for the State university, and besides those, shall have delivered to him such additional copies as will enable the governor to exchange for maps of other States and Territories, and the maps so received in exchange shall become a part of the property of the State library.

SECTION 4. Be it further enacted; That it shall be the duty of the different county officers throughout the State to afford the State engineer every facility for obtaining such information as he may require in the completion of the said work.

SECTION 5. Be it further enacted, That this act shall be in force from and after its passage.

Approved October 26th, 1866.

Was not Benjamin F. Humphries governor at the time this act was adopted and was not this in furtherance of his message to the legislature concerning which I have just asked you and read an extract from?

A. Well it would seem so from the reading of it.

Q. I now beg to direct your attention to the Laws of Mississippi of 1871, and more particularly to page 737, chapter 349 reading as follows:

"An Act to Grant Aid for the Purpose of Revising and Publishing an Official Map of the State."

"Whereas, the publication of an official map of the State of Mississippi, by T. S. Hardee, State engineer, has been entirely suspended since January 1st, 1870, by reason of the formation of new counties within the State, and,

1811 Whereas, on account of the formation of said new counties, and for the further purposes of preparing a map in greater detail, embracing the sectional lines and the sectional numbers, said T. S. Hardee has had much additional expense in having the whole work re-engraved, thus loosing entirely the cost of the original engraving, therefore.

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That on the completion of the new edition of the map as above set forth, and the approval of the same by the governor, and when a number of the maps due to the State for distribution of the different counties shall have been delivered to the secretary of state, in conformity with the act of the legislature, approved October 26th, 1866, together with 54 additional maps, then, upon the certificate of the secretary of state to the effect, the auditor of public accounts is hereby authorized and required to issue to said T. S. Hardee, his warrant on the treasurer, for the sum of thirty five hundred dollars ($3500.00,) out of any money in the treasury, not otherwise appropriated, for the purposes and uses of the said T. S. Hardee for additional labor and expense incurred in the revision and republication of said official map of the State.

SECTION 2. Be it further enacted; That this act take effect from and after its passage.

Approved May 10th, 1871."

Now General I will ask you to please look at the date of the approval on this map concerning which you have been testifying, and which is known as Louisiana map No. —, and state whether this is not the map which was originally suggested in the gov-
1812 ernor's message of October 1866; authorized first in October 1866 when Governor Humphries was governor and finally revised, re-printed and approved again in 1871 on the 10th, of May.

A. Well I cannot say whether it was the map that was contemplated then or not. It might have been the map, the map upon that order, but the recommendation to Governor Humphries was made in 1866, that was when the people of the State, the property holders of the State made up the two bodies of the legislature. Five years afterwards this map was approved, but before I make further answer I want to get the journals of 1871 and look over the members of the legislature of that date.

The commission here took a recess for the noon hour, to reconvene at two o'clock p. m.

1813 The commission met pursuant to adjournment of this morning at two o'clock, and there were present the same as this morning.

Governor ROBERT LOWRY, being still on the stand, testified as follows:—

A. I have looked over the journals of 1871, and I want to say in answer to the counsel that I do not believe that the map here as approved by General Alcorn in 1871 has any connection whatever with the recommendation made by Governor Humphries in 1866. I have no recollection of any map smaller than this made by authority of this map, nor do I believe that there is such a map in the archives of the State. If so it is smaller and of little value, whether made by Hardee or any one else. My belief is that this map here had its origin in the legislative enactment which has been read by Mr. Dymond who propounded this question to me.

Q. Which act General?

A. The one that you spoke of in 1870 or 1871.

Q. Now General as I understand it you don't dispute the fact that in 1866 the legislature of Mississippi authorized the creation of a surveyor and the preparation of a map?

A. You read that awhile ago. Governor Humphries' recommendation did you not?

Q. I read the act of the legislature of the 26th, of October 1866?

A. Did you not read the recommendation of Governor Humphries?

Q. I read that at first?

A. Well let me look at that a moment will you?

Q. Now I am not asking you at all about the governor's recommendation. I am asking you about the act of the legislature?

1814 A. I want to look at the governor's recommendation at all events.

Q. Now General I will ask you the question. As I understand it you don't dispute the fact that in 1866 the legislature of Mississippi authorized the creation of a surveyor and the preparation of a map?

A. Yes sir, I say in 1866 the law approved October 26th of that year, that a law was passed authorizing the governor to appoint a State engineer to perform certain duties. To make a historical and statistical map etc.

Q. Do you know how maps are made generally so far as the preparation and compilation of the data is concerned?

A. I do not.

Q. Therefore would you be prepared to say that work on this map had not been started prior to 1866. Work on the compilation of the data?

A. No sir, I am not prepared to say anything about it either way.

Q. Are you prepared to say that work was not done on that map immediately after 1866 and prior to 1871?

A. I have no opinion upon that subject.

Q. I understand you have very considerable feeling and no doubt justly on the conditions as they existed in 1871 and during the period when reconstruction was existing in Mississippi. Now let's eliminate that entirely from our present discussion and refer to conditions existing under Governor Humphries. As I understand it Governor Humphries was an honest man. Is that right?

A. Well in answer to that question I desire to say that I think that I have sufficient conservatism to answer questions, any

1815 questions, without regard to any feeling that I might have had years ago. In my answer in regard to this map.

Q. General, I don't want to get you off. I am asking you a plain simple question as to whether Governor Humphries was or was not an honest man?

A. No sir, your question embraces more than that. I will ask you to repeat it.

Q. If you consider that my question embraces more than that I will cut my question down to the specific question. Was Governor Humphries in your opinion an honest man?

A. Well then that is the entire question is it?

Q. Yes sir, that is the one I now request you to answer. Answer it yes or no please and explain afterwards?

A. In my judgment he was an honest and honorable man.

Q. Do you then know General whether Governor Humphries appointed Mr. Hardee as a surveyor provided for by the act of 1866?

A. I do not.

Q. Will you swear whether as a member of that senate you voted for the confirmation of his appointment?

A. I don't know that either.

Q. Do you know anything at all about the ability of Mr. Hardee to prepare a correct map of the State of Mississippi?

A. I do not.

Q. Do you know whether this map that you have been testifying to is or is not a correct map of the State of Mississippi?

A. Well I have not testified any thing about its correctness or incorrectness. I never have examined it specially.

Q. Will you examine it and state whether you know it to be a correct map of Mississippi?

A. That will take some time Mr. Dymond. You want me to look over it and see whether I think it is correct or not?

Q. You might confine your investigation more particularly to the southern portion of Mississippi regarding the disputed area

1816 in controversy in this case?

Q. I want to say about the map, that I gave you in my previous answer all that I knew about it. I never paid any attention to it at the time it came out. I say I paid no attention to the map and in my judgment when that map was issued in 1871, the people of the State, the people whom I generally go with, the people who own the property and who pay the taxes here had no more to do with that map than they had with any other piece of legislation that was done in that character of legislature. Not only in Mississippi but your State and other States.

Q. Well General will you please answer what that had to do with the correctness of that map?

A. Well I don't know what it had to do with it. I don't know whether the map is correct or incorrect. I don't pretend to say. I pretend to say this, you understand——

Q. Have you any reason to suppose General Lowry that this map at the time it was prepared by Mr. Hardee did not represent the conditions as they were understood to exist at that time so far as the geography of the State was concerned?

A. I don't know whether I have or not sir.

Q. Now in 1882 E. G. Wall, commissioner of emigration and agriculture of this State prepared a map. Were you governor at the time Mr. Wall was commissioner of emigration and agriculture?

A. Yes sir, I was the governor at that time.

Q. Did you appoint him or was he elected?

A. I suppose he was elected.

Q. You don't remember though?

A. I don't remember, but I think that he was elected.

Q. Was he a Democrat?

A. I suppose he was yes sir.

1817 Q. That is at the time that the State had gotten back in the control of the Democratic party?

A. Yes sir.

A. Perhaps I can make myself better understood in this way. That during the radical days a man that wanted to get a thing passed by the legislature was here and with them, and he got it through, and if he did get it through and it was a success, the people who paid the taxes and supported the government had nothing to say about it. They could not help it.

Q. What year General did the government of the State of Mississippi pass back into the hands of its people?

A. Well now I don't recollect. You can get that from the records.

Q. Who was the first governor under the Democratic regime?

A. Governor Humphries.

1798 Q. He was displaced was he not?

A. Yes sir, he was displaced. Ames was the military governor then, and then Alcorn succeeded Ames.

Q. Well then who succeeded Alcorn?

A. Well sir Alcorn went to the United States Senate. Was elected to the United States Senate by a radical legislature. A negro by the name of Davis was lieutenant governor, and he was impeached and convicted. John M. Stone was then president *pro-tem.* of the senate, and John M. Stone was then made governor by promotion from that position.

Q. He served the unexpired term?

A. He served out the unexpired term.

Q. Or Ames?

A. Yes sir, and then he was elected governor.

Q. Who succeeded Stone?

A. I did.

Q. What year did you come into office?

A. I went in there in January 1882.

Q. Can you remember in what year the railroad commissioners for the State of Mississippi were appointed?

A. Well I think it was in 1884.

Q. Do you or not know that this same Captain Hardee was appointed under the Democratic administration as one of these railroad commissioners?

A. I do not. I don't remember. I was trying to think if there had not been one before 1884, but I don't remember.

Q. When did your last term expire?

A. It expired in 1890.

Q. Are you certain that during the term that you were governor that you did not appoint Captain Hardee one of the railroad commissioners?

A. I did not. That is my distinct recollection.

Q. You are positive that you did not?

A. I am satisfied that I did not. No sir.

1799 Q. You don't know whether he was appointed under Governor Stone. There was no railroad commission then was there?

A. I don't think there was. I appointed Governor Stone railroad commissioner under this bill creating them in 1884. I don't think Hardee was ever appointed by a Democratic administration. You know that there were a great many railroads chartered at that time. There were some men canvassing in different parts of the State for different railroads. It might have been from that that you think so. I will answer that question that I feel perfectly sure about it. Governor Stone as I stated filled out the unexpired administration of Ames, and he then served another term and I succeeded him, and then succeeded myself and then Stone succeeded me, and he was not appointed during this Democratic administration.

Q. You say General that you know nothing about the Gulf boundaries of the State of Mississippi and have not paid any special attention to it, except the general understanding that the boundaries of the State of Mississippi extended to a certain distance from the shore?

A. Yes sir, that has always been my understanding. The understanding of the people.

Q. Well now this map which was issued by E. G. Wall, the chief of the Mississippi State board of emigration and agriculture. That was issued during the Democratic administration?

A. During my administration I think sir.

Q. Was not he appointed by you?

A. I think he was elected. He was a negro.

By Gen. GUION:

Q. He was elected by the Democrats?

A. Yes sir, I think so.

Q. And after the Democratic party had taken possession of the State government?

1800 A. Yes sir.

By Col. ZACHARIE:

Q. Do you know General while you were governor of the State of Mississippi whether any taxes for the State or the counties of Mississippi were ever levied on this disputed territory. Let me ask you first, you know the disputed territory?

A. You mean the islands.

Q. The islands or what is regarded as the main land of St. Bernard parish?

A. I only know two or three of them. As I stated my general understanding was that Mississippi's jurisdiction extended as Congress provided. In the act.

Q. Well about the taxes. Did you ever know of any taxes being levied on these islands and this territory here. Those are within this red line as shown on Mississippi A.?

A. Well I am not prepared to answer that question.

Q. You don't know one way or the other?

A. No sir, not about that. The governor does not have much do with that part of it.

Q. You have spoken of the acts of Congress admitting the Sta of Mississippi; the State of Mississippi was admitted in 1817. Louis ana was admitted to the Union in 1812. Have you ever examine the act admitting Louisiana into the Union in regard to he boundaries?

A. Well my recollection is about that Colonel—I don't know tha I recollect it now, because I have not the data. When I, in co junction with Col. McCardle wrote the history, the school history Mississippi, and at that time the adjacent States—at the time Gov ernor Claiborn was you know first in this State and then over i Louisiana—I then had occasion to look up the data to see some thing that I desired to see about it, and that is about my recol
1801 lection of the examination that I made so far as Louisian was concerned.

Q. You have no recollection therefor- of what the act admitting Louisiana prescribed in regard to her boundaries?

A. No sir, I don't remember. I have no distinct recollection o that. All of my definite recollection is as to the State of Mississipp and the act of Congress as to her.

Q. Do you or do you not remember whether this map that wa approved by Mr. Wall, as the chief of the Mississippi State board o emigration and agriculture in 1883 was in pursuance of authority vested in him under the act of the State legislature of the State o Mississippi directing him to prepare such a map?

A. I don't recollect the character of the authority conferred upon the commissioner. My recollection is that it was by the immigra tion board at that time. I don't remember about that, but I pre sume though that he had some authority for it.

By Gen. GUION:

Q. It is a fact is it not General also that J. L. Alcorn was governor of Mississippi on the 10th, of May 1871?

A. Yes sir, I think he was.

Q. Do you remember whether T. S. Hardee was State engineer of the State of Mississippi in 1871?

A. I do not, no sir.

Q. Do you know as a fact that the map made by T. S. Hardee and approved by J. L. Alcorn as governor of Mississippi on the 10th, of May 1871 is a part of the archives of the land department of the State of Mississippi at this time?

A. Well I don't know personally about that sir. I know that that map was made at that time there. I don't know, I don't remember about the map at all. I don't know whether it was among the ar chives or not.

1802 Q. This came from Mr. Wall's office. I thought perhaps you knew that?

A. No sir, I don't know where it came from.

Q. Has the State of Mississippi by legislative acts or otherwise ever voided or repudiated or attempted to repudiate this map made by T. S. Hardee in 1871, and approved by Governor Alcorn in 1871?

A. I don't suppose that they ever took any action one way or the other about it. The map was made at the time I have indicated and under the circumstances and conditions that I have stated.

Q. It is a fact though is it not General to your personal knowledge that the State has never passed any act since the approval by Governor Alcorn of this map repudiating it as a correct map of the State of Mississippi?

A. Not to my knowledge sir. I don't know of any thing of that kind ever being done, no sir.

Q. Don't you know as a fact that it has never been done?

A. I suppose I would have known some thing of it if it had been done. My opinion is that it never has been done.

By Mr. DYMOND:

Q. General Lowry as I understand it you have been offered as a witness here to prove the conditions that existed at the time, supposedly, of the production of two maps, one being T. S. Hardee's map of Mississippi approved May 10th, 1871, by Governor J. L. Alcorn, and the other known as Louisiana map No. 32, a map prepared in 1883 by E. G. Wall, commissioner of emigration and agriculture. Well now first take up this map of Mr. Hardee as it is the earlier of the two maps. What do you know General as to the correctness or to the incorrectness of the southern boundary of Mississippi as interpreted by this map of Hardee?

1803 A. I don't know sir anything about it. I don't know as to the correctness or to the incorrectness of Hardee's map.

Q. I understand then if this map is correct or is not correct, you are not supposed to testify anything as to that?

A. How is that sir?

Q. As to the correctness or the incorrectness of this map you are not supposed to testify anything about that?

A. No sir.

Q. As I understand it further personally you know nothing in regard to the southern boundary of the State of Mississippi carried out in detail where it touches Louisiana?

A. I do not.

Q. You were governor from 1882 to 1890 as I understand it?

A. Yes sir.

Q. Now I believe you stated that you were unable to testify definitely as to when the white people came into control of politics in the State of Mississippi?

A. No sir, I did not state that.

Q. Can you fix that date?

A. Yes sir.

Q. What was that date?

A. In 1875 we won out.
Q. 1875?
A. Yes sir.
Q. The war ended in 1865?
A. Yes sir.
Q. What party were in power in Mississippi immediately succeeding the war?
A. The Democrats and the white people. There were Democrats and Whigs. Governor Humphries was elected and he was a Whig.
Q. There was a good government then was not there?
1804 A. Well if we had any body that was good in our State Ben Humphries was good.
Q. When was it that the radical and carpet bag element came into power in this State?
A. When Governor Ames was appointed military governor.
Q. When was this?
A. When he run Humphries out of the state house and the executive mansion.
Q. What date is that?
A. I could not give you the date now.
Q. Could you get it and familiarize yourself with it please. It is quite important to have that date. What year?
A. Well I can not say about the year sir. Let me see. It was probably in 1867. I don't remember. I can not state about the dates.
Q. Was there a good government here in 1866. Say in the month of October?
A. 1866. It is my recollection that—I am not sure—I don't think that Governor Humphries had gone out before that time. If he was in we had a government of our own people. If he was out we did not.
Q. Can you not fix that now. Have you not access to some record?
A. Excuse me. I can not come within two or three months of it. My recollection is not that good.
Q. Is there not some record which you can refer to and refresh your recollection?
A. Yes sir.
Q. Can you do it now?
A. Yes sir. That was in 1867 that Governor Humphries was ejected.
Q. Then as I understand it in 1866 on the 26th of October you say that there was a good government in the State of Mississippi?
1805 A. Yes sir, he was inducted into office on the 15th of October 1865.
Q. And remained in there until that date?
A. I think until 1866, because in the convention of 1868 the

Democratic party nominated him as a candidate on the Democratic ticket.

Q. Did I understand you to say a moment ago that he was governor on the 26th of October 1866?

A. He was inaugurated. He was governor in 1866. 1865 and 1866.

Q. Up to what time?

A. Well my impression is—I do not find the time here exactly, but my impression is that he was ejected in the latter part of 1866. He convened the legislature by a proclamation in August 1866, and I think a short time after that, on the 15th day of the following October they were to meet, a short time after that I think, before 1867 I think probably he was succeeded by Ames as military governor.

Q. I desire now to repeat the question and ask you again whether or not Governor Humphries was governor on the 26th of October 1866?

A. On the 26th of October 1866. Yes sir, I take it that he was because on the 16th of October 1866 he sent a message to the legislature.

Q. Can you fix with definiteness when he was succeeded by the military governor. You testified a moment ago that you thought that it was in 1867?

A. Yes sir I can find that I reckon.

Q. Can you from any reference you have made indicate about the time that Governor Humphries was removed from his office of governor?

A. General Humphries was a candidate for governor in 1806 1868. He had been removed——

Q. Will you please look at the School History of Mississippi by F. L. Riley, page 297, paragraph 663, and read the first paragraph to the stenographer?

A. On June 4th, 1868, General Gillam was succeeded by General Ruffain McDowal who commanded the district until July 4th, when General Gillam was reinstated. McDowal's brief reign was marked by the removal of Governor Humphries, and Attorney General Hooker, it being alleged they were an obstacle to the reconstruction cause. Brevet Major General Adelbert Ames was appointed provisional governor in the place of Governor Humphries. A military officer was detailed to perform the duties of attorney general. On February 9th, following the secretary of state was removed.

Q. General is that Humphries mentioned in the paragraph that you have just read from the Governor Humphries concerning whom you have been testifying?

A. Yes sir.

Q. I notice in the history of Mississippi gotten up by Lowry and McArdle page 371 the following clause "The legislature adjourned on the 21st of February 1867." Was Governor Humphries governor at that time?

By Mr. McCLURG:

Q. What kind of a legislature was it that elected him to the Senate?

A. It was a radical legislature. Negroes and carpet-baggers.

By Col. ZACHARIE:

Q. From your personal knowledge of Governor Alcorn, as well as from his general reputation are you of the opinion that he would have appointed to this position of State engineer Captain Hardee if he was not competent man for the position?

A. Well in answer to that question I will say that General Alcorn made appointments that he believed would benefit his party and secure influence to himself. And I want to say further that I feel that I could not do otherwise than answer when I tell you, who are a lawyer, that General Alcorn appointed to the supreme bench of Mississippi a carpet bagger, and a man who had no standing as a lawyer. He appointed him as one of the supreme judges of
1795 Mississippi, and I think I would be justified in saying, when a man would appoint as a judge of the court of last resort a man who did not have the qualifications, and he was willing to make him supreme judge, that then he would certainly make other appointments that he thought would be advantageous to himself.

Q. General, if it be shown, as we intend to show, that Captain Hardee was a Democrat, bitterly opposed in politics to the existing government at that time. Would you think that under these circumstances Governor Alcorn would have selected a man opposed in politics to himself and opposed to his government unless he had full confidence in his integrity and competency?

A. Well I would answer that question in this way. That in my judgement under the conditions that existed at that time I don't believe any living man who opposed the Republican party and had spoken against it in Mississippi could have gotten any thing from those in power at that time.

Q. I notice upon this map that there is an official endorsement as required by the statute I believe, from Governor Alcorn as the governor of the State of Mississippi. From what you know of Governor Alcorn of your own personal knowledge and by reputation, are you of the opinion that Governor Alcorn would have approved that map if he did not consider it correct. Approved that map of Mississippi?

A. I will answer that in this way. That if the legislature appointed a party; appointed Captain Hardee as State engineer. If he had been appointed as State engineer by the legislature; they appointed him to make a map of the State, my impression is that from the conditions at that time that Governor Alcorn had a competitor in the person of General Ames, and it was a contest between them my idea is that General Alcorn would have approved
1796 the act of the legislature with the hope of retaining a majority of his people.

Q. I am now speaking of and asking you questions Geneaal in regard to the act of Governor Alcorn in approving this particular map. In your opinion and from what you know of Governor Alcorn personally and by reputation, would Governor Alcorn have approved a map as governor, as the official map of the State of Mississippi, unless he believed and was satisfied that the map was a correct delineation of the State of Mississippi?

A. It is a difficult matter for one to draw a distinction between personal integrity and official life, and more especially so at the time that this map was made. I have no doubt that Governor Alcorn approved many things that he would not have done under a different state of facts.

Q. That Governor is not yet a specific answer to my specific question in regard to this particular map. I am now speaking of and asking you questions General in regard to *to* the act of Governor Alcorn in approving this particular map. In your opinion and from what you knew of Governor Alcorn personally and by reputation, would Governor Alcorn have approved a map as governor, as the official map of the State of Mississippi unless he believed and was satisfied that the map was a correct delineation of the State of Mississippi?

A. I will say this. How Governor Alcorn came to appoint a civil engineer I don't know. If he had any precedent for it I am not aware of it. My impression is that the authority of that map secured it- acceptance by the legislature from the character of men that at that time filled the two houses. The lower house and the State senate, and that General Alcorn approved that map; not only approved that, but approved other laws that he would not have done as James L. Alcorn, Whig leader of Mississippi.

Q. Now General, my brother Dymond has suggested that we are entitled to a categorical answer to the cat*a*gorical question
1797 and then of course you will be allowed to explain. I have not yet gotten a specific answer from you as to whether Governor Alcorn would have approved that map as the official map of the State of Mississippi unless he was satisfied that it was a correct and proper delineation of the State. Now I will ask you to please state yes or no according to your belief?

A. I believe he would at that time have approved it whether he believed it correct or not, and I will go further and state from party considerations. That is my opinion.

Q. General you have mentioned that he would have been influenced by an acceptance of the map by the legislature. Was there any acceptance in fact, or was there any acceptance required by the legislature. Was not it left to the approval of the governor?

A. Well now Colonel I can not answer that question. I don't know what the statute was upon the subject.

Q. Part of your reasoning was based upon the fact that he would do so and so, because of the acceptance of the legislature. Now suppose there was no acceptance by the legislature?

the channel and harbor at Gulfport of which you have spoken leading out to Ship island. That this 9. nautical blue line from Isle à Pitre reaches very nearly to the channel?

A. I notice that according to this map, if this map is correct. I can not testify that this map is correct.

Q. And you will also notice that there is a- inner line marked 9. nautical miles from Grand pass, and still another inner line marked 9. nautical miles from the main body of the marsh land. As I understand the purport of these lines Colonel, they mean the three leagues from the coast mentioned in Louisiana's bill of complaint, and that that State expects to establish her boundary or the limits of her jurisdiction there at nine miles from the main body of the marsh land; nine miles from Grand pass, and nine miles from the northeastern end of Isle à Pitre, either of which lines as you will observe strike the Mississippi shore east of Point Clear. In this connection I also call your attention to the red lines
1832 running parallel with the Mississippi shore marked 1 statute miles, and 18 nautical miles from the coast of Mississippi. You will gather from these lines a general idea of the contest in this particular locality. State what you may be able to state the effect on the commerce of Mississippi would be if the jurisdiction of Louisiana should be established according to the blue lines to which I have called your attention?

A. As I understand your question it would absolutely shut in Mississippi from Cat island and the waters east of it for several miles taking your northeastern line of nine nautical miles from Isle à Pitre. Taking your inner line it would shut off about half of Cat island. Taking your southernmost line it would shut off the most of the islands southwest of Cat island, where I was informed are the greatest oyster beds. But what effect it would have on the commerce entering into Gulfport I can not say unless Louisiana would have control of these waters. If the United States Government remained in control of the waters then I don't see how it could affect the commerce coming into Gulfport and going out into the gulf of Mexico, except it might affect the commerce that now comes down Pearl river and in Bay St. Louis that now comes to Gulfport for loading on foreign ships. That would of course be entirely shut off if Louisiana claimed absolute control of the waters.

Q. It has been shown during the progress of the testimony that has been taken in this case that licenses have been required of boats fishing in the waters of the respective States of Louisiana and Mississippi. Would the extension in your judgment of Louisiana jurisdiction according to the lines materially affect the revenues of the State of Mississippi with reference to these licenses and
1833 other matters over which the State has jurisdiction or may have concurrent jurisdiction with the Federal Government?

A. There is no question about it would shut off practically all of the State's income from catching the fish and oysters out of the water south of Mississippi as it has done. For all of the oysters

practically lie within the claims of Louisiana according to these lines and this map.

Q. How long did you say that you had been in Gulfport?

A. I would like to say that when I said nine tenths of my time, that is just an estimate. I have spent the greater part of my time in the State. Previous to that I have been interested in Gulfport and Mississippi since 1896. The fall of 1896, but I have taken charge of my property there since April 1st, 1901.

Q. State in a general way please what developments; industrial enterprises have grown up along the line of your road through southern Mississippi since you have been interested in it, and tell us something of their values?

A. There was practically no development or very little in that section of the State of Mississippi until the Gulf & Ship Island railroad started to build in 1896. There had been some work done on the railroad previous to that but it failed to mature to any benefit to the projectors of it. Since then the development of Gulfport has been from three little wooden shacks and half a dozen souls to nearly seven thousand people and various industries as pertains to such a city. The commerce at Gulfport has developed from nothing to about 22 or 23 million feet of export lumber per month, and 150,350,000 the last seven months, and 175 ship loads left the harbor 1834 for foreign lands and export trade since January 1st, 1904, to August 1st, 1904. The industries along the Gulf & Ship Island road have increased from practically nothing to 130 saw mills, with towns and little cities from Gulfport to Jackson, scattered along the road. I have been creditably informed by the commissions that assess property, that the valuation of the properties have increased over fifty million along the Gulf and Ship Island railroad, and the industries have grown in proportion, with four or five large oil mills, several cotton compresses, and four or five large manufactories. Nearly all of the naval store business, which includes turpentine and rosin from the State of Mississippi, part of Alabama and part of Louisiana come to Gulfport. Most of it from Louisiana and Alabama come by the way of the water in Mississippi sound, along the coast of the mainland to Gulfport; there it is prepared for export, and within the last two months there are three large steamers loaded with turpentine and rosin for Europe. A large steamer came to the pier this month loaded with perites of iron from Spain for the oil mill of Gulfport, and there is no question but what hundreds of more of such cargoes must come there as it is the cheapest point for all of the manufactories of the cotton seed oil mills, and fertilizing plants between Gulfport and Jackson.

By Mr. FLOWERS:

Q. Colonel Jones, you stated that if the lines which appear on this map No. 7, were established as the boundary lines of the State of Louisiana, that it would include within Louisiana territory nearly all of the valuable oyster beds. Please state whether that

would be the result if the line marked on this map No. 7,
1835 as the deep water channel claimed by Louisiana was established as the real boundary line between the States?

A. It would unquestionably cut off Mississippi from the most valuable oyster beds, leaving a very small amount of it near Cat island.

Q. Colonel Jones. Please state if you know whether the land all along the coast of Mississippi between Gulfport and the mouth of Pearl river is of considerable value?

A. Oh yes sir, it is of great value.

Q. State whether or not it is thickly settled?

A. There is a large population along the coast from Gulfport to the mouth of Pearl river, including Pass Christian, Long Beach, and many other houses along the coast.

Q. Is it not a fact that the land along the coast from Gulfport to the mouth of Pearl river is divided up into lots?

A. The most of it.

Cross-examination.

By Gen. Gunos:

Q. Col. Jones, will you be kind enough to tell me whether or not you know what the claim of Louisiana is as to the lines dividing her territory from that of Mississippi?

A. Only as I see them on map No. 7, before me.

Q. There are several lines on map No. 7, which is now before you. Will you kindly indicate to me which line is the one that Louisiana claims?

A. No sir, only as they are laid off here. Here are the lines, and I am satisfied that it is one of the three lines or four lines there.

Q. You see four lines do you not all in blue marks?

1836 A. Yes sir, I call these two lines here close together as one line, and I call this one running *paralel* more or less with the coast, and this called the deep water sailing line, that I would call the fourth line.

Q. Now if I would say to you that the State of Louisiana claims as the real boundary between it and the State of Mississippi, what is on this map marked No. 7, as the deep water sailing line from Pearl river to the gulf of Mexico, would not that line run between Isle à Pitre and Cat island?

A. Yes sir.

Q. If that should be recognized by the Supreme Court of the United States as the line between Mississippi and Louisiana will you be kind enough to state in what way there could be any interference in regard to the canal or channel that you have got from Gulfport to Ship island?

A. None whatever as I understand it except it would cut off o prevent the timber now coming down Pearl river, and sawed at th

mouth of Pearl river coming to Gulfport, only by going through Louisiana possessions or claims.

Q. Then your idea is if Louisiana is successful in having the line indicated on this map marked No. 7, as the deep water sailing line from Pearl river to the gulf of Mexico is the correct dividing line between it and Mississippi, that it would be cut off at Gulfport from any timber and supplies of any kind coming out of Pearl river. Is that your understanding?

A. No sir, unless it comes through the possessions of Louisiana as shown by this map.

Q. Do I understand you to believe that any lumber or products of any kind coming out of the eastern mouth of Pearl river down into the Mississippi sound into Lake Borgne would be cut off
1837 from coming to Gulfport altogether simply because this line between Mississippi and Louisiana would be held to be what on this map marked No. 7, is the deep water sailing line from Pearl river to the gulf of Mexico?

A. Do you ask me for my opinion?

Q. I thought that you stated opinions is the reason that I was asking you?

A. I don't think it would have any effect because I don't think that Louisiana would interfere with it.

Q. Will you state what the distance is from Gulfport to Ship island?

A. 11 miles. Now let me understand that. It is 11 miles from Gulfport pier to Ship Island light house, but only seven or eight miles to the deep water around Ship Island harbor.

Q. What is the length of the channel that you have got?

A. About eight miles from the south end of the pier.

Q. How do these vessels get to what you call Ship Island channel from the gulf of Mexico?

A. Come between Ship island and Cat island, but much nearer to Ship island where the Government has dredged the channel through the bar.

Q. Then if I understand you Col. Jones, you can not understand in what way there could be any assertion of claim of jurisdiction by the State of Louisiana between Gulfport and Ship island should Louisiana be successful in establishing as the boundary line between her and Mississippi what on this map is marked No. 7 as the deep water sailing line from Pearl river to the gulf of Mexico?

A. It would have no effect whatever sir.

Q. That would be entirely north would not it that Louisiana claims, if that be the line she claims in?

A. Yes sir, be north east.

1838 Q. And the channel by which the vessels would come out to the sea from Gulfport would be between Ship island and Cat island?

A. Yes sir.

Q. Do you know any thing at all about the channel between Cat island and Isle à Pitre?

A. I do not, only from casual expressions of other people. Not personally.

Q. Have you ever been there?

A. Yes sir, but with no intention of measuring the water or looking for any channel or any thing of that sort.

Q. You don't know the depth of the water then between Cat island and Isle à Pitre?

A. No sir, I do not.

Q. Do you know if there is a channel in between them?

A. I have been told so. I never sailed over it that I know of, only sailed around down there.

Q. Now you spoke just now of the oyster territory if I mistake not, and I understood you to say that if the line claimed by Louisiana should be held to be the proper line of boundary between it and Mississippi, that the oyster territory would be given exclusively to Louisiana or almost entirely to Louisiana. Am I mistaken in that?

A. No sir, you are not. As I understand it from this map nearly all of the valuable oyster beds would be excluded from Mississippi.

Q. Where are the valuable oyster beds located with reference to this line on map marked No. 7. called the deep water sailing line?

A. South and southwest.

Q. Have you ever been down in this territory that is broken up by lagoons and bayous, what is called the marshes, and Louisiana claims as a part of St. Bernard parish and which Mississippi claims to be within the 18 mile limit?

1839 A. Only along the northwest part of these islands, and never down among them.

Q. You have never been down into this territory proper?

A. No sir.

Q. What part did you say that you had been in?

A. The northwest, down here.

Q. That is the north east?

A. Yes sir, but I mean down over here. I have gone over the water south of the line as you state it, through here, but never down in the southern part of these islands and marshes.

Q. In other words you have never gone into what Louisiana calls the parish of St. Bernard. That is what she calls the parish of St. Bernard?

A. No sir, I never have.

Q. How old is Gulfport?

A. I think that the name was given to that port some 23 or 25 years ago, but the recent Gulfport is from 1896, and there were only about three little shacks there at that time.

Q. When did it begin to be a port of any consequence for the exportation of lumber and other materials by vessels. In other words when did it assume any commercial importance?

A. I think on the 6th day of January 1902, the first ship capable of drawing 20 feet landed at Gulfport. That year 29 ships came to Gulfport. They had a very narrow and imperfect channel.

Q. That is the first instance of vessels coming to Gulfport?

A. Yes sir, in 1903, 111 came to Gulfport.

Q. And it has been increasing ever since?

A. In seven months, in 1904, 175 up to August 1st.

Q. Colonel Jones, have you any data or information of any kind that would enable you to state to this commission, and to the Supreme Court, that in 1817 Gulfport had any commercial importance at all?

1840 A. I could only state that from my recent experience that there was nothing but the coast along there.

Q. Nothing but the coast?

A. Yes sir, with very small timber. Of course I cannot say it was all small timber at that time, but we found it very small timber. I am speaking as we found it in 1896.

By Col. ZACHARIE:

Q. Col. Jones, do you know or do you understand that since almost the foundation of the Government of the United States that it has been decided that the United States Government has exclusive jurisdiction over the navigable waters lying within the boundaries of the State?

A. I can say that has been my information and understanding.

Q. According to your understanding does not that jurisdiction refer only to the navigation and commerce passing over navigable waters?

A. I cannot say that, for on the Ohio river they assume a certain right to control the sale of liquor. Just what that right is I can not say but I know that to be a fact.

Q. You can not say that they asserted any right to control the sale of liquor except under the internal revenue law?

A. No I will not say that because I don't know what the foundation of their claims were [illegible] the sale of liquor on the Ohio river.

Q. Did you not understand that the property—that the bottoms of navigable streams and parts of the sea and sound within the jurisdiction of the State are the property of the State and can be governed by the State except in as far as not to interfere with navigation?

A. That has been my understanding so far as the commerce of the country was concerned.

1841 Q. Well what you have said about the United States interfering with the works on this channel and so on at Gulfport was simply because the United States was exercising its undoubted right to see that the rights of navigation were properly protected?

A. That was my understanding. I got that information direct

and within your knowledge independently of the face of the map or of the legislation, in that connection that indicates that these maps had any purpose or bearing upon the boundary in the waters of the Gulf between Louisiana and Mississippi I wish you would state it?

A. Well no sir. The original map as I understood it was to divide the State into counties, and giving the counties, etc., and I never knew or understood any thing about the dividing line between Louisiana and Mississippi on the maps.

Q. Prior to the institution of this suit, while you were governor, and before and since have you any knowledge of any controversy between these two States as to the boundaries in the waters of the Gulf?

A. I have none. I have not heard any dispute about the boundary. I don't remember whether it was during my first or
1821 second term as governor that I sent a message to the legislature in regard to the oysters down there. To protect the oysters. That is my only recollection. I knew nothing about the dividing line and heard nothing about the discussion of that. If there was I did not hear it. I was induced to send this message from the fact that I thought that these oyster interests ought to be preserved. I called the legislature's attention to the fact that I thought that interest should be preserved. So far as these maps are concerned I never heard any discussion of them.

Q. The messages of the governors and the acts of the legislature don't increase the power of a fellow to make a map correctly does it?

A. No sir, it does not.

Q. As I understood it in answer to the question by counsel for Louisiana in reference to the Wall map. That is a sort of revenue map. Emigration map?

A. Oh, this little thing here is about as near nothing I suppose in the shape of a map as could be gotten up. I will say this in connection with that. George Carlisle, who lives up the street here, a man of means and of property and sense. Carlisle became commissioner of emigration and I think that he got ten dollars a year. He made a much better map than this one. I was going to look in my office for Carlisle's map. He made a map and this man made a map, and Carlisle's is much better than this one.

Q. Carlisle succeeded Wall?

A. Yes sir, and he sold the Illinois Central railroad a number of maps of that kind. To, I forget his name, the man who comes down here and talks about immigration. Captain Merry.

1822 Q. Do you recognize maps as being of material value in settling State boundaries?

By General GUION: Objected to on the part of the State of Louisiana as being simply a conclusion of law and not a matter of fact.

By Mr. DYMOND: And also on the ground that the witness is not an expert on boundary matters.

Q. Governor, if there is anything else that you desire to say in this connection I would be glad for you to do so?

A. I don't know of anything that is embraced in your respective contentions that I would like to mention, but I would like to say this much. The counsel for Louisiana, as I understand it, Col. Zacharie propounded a number of questions to me about the integrity of Governor Alcorn and whether he would sign any paper or approve any law that he thought was improper etc. Now I want to say this. Governor Alcorn was a gentleman. I esteemed him very highly. A man of courage, and a man of great force of character, and will force, before he got in that condition here politically with his own people. Those who had been his friends previously as a great Whig leader of the State. He got into trouble with them and lost them all nearly, except now and then a personal friend would stand by him. Then unfortunately he failed in what he intended to do in carrying out his purpose with the negroes and carpet baggers, and then he come in conflict wih Governor Ames, and these people that had been in with him began to shove him off. He was just in that condition that he wanted to bring friends to him, and I think that the governor had to
1823 shield himself as well as he could, and my opinion is that he approved laws that differently situated he would not have done. I think that the governor was a gentleman of personal integrity, but politically he lost out, and he retained many personal friends notwithstanding he lost his political influence in the State. Now I want to add further in regard to Captain Hardee. In my intercourse with him I always esteemed him as a gentleman, and in the passage of this bill through the legislature as I have already stated in my answer today, I don't believe any living man who is a Democrat, and Col. Zacharie referred to that, I don't believe any living man could have come here as a Democrat and got any character of bill that would have been of any advantage to him through the legislature, which was composed largely of negroes and of white men who had no interest in the State. I have been looking through this legislature of 1871 and you can scarsely find one of them now that is an inhabitant of Mississippi. They did their work and left. They got what they could and cleaned out. I know nothing of the contention as to the boundary lines whatever personally nor have I ever investigated or tried to investigate the question. I have always in looking over it accepted as true the acts of Congress. That is my information generally on the subject.

1824 Col. J. T. JONES, a witness introduced on behalf of the State of Mississippi, being duly sworn, testifies as follows:

By Gen. MCCLURG:

Q. Where do you reside Col. Jones?

A. My home is in Buffalo, New York, but for the last three and a half years I have spent at least nine tenths of my time in Gulfport Mississippi.

Q. As you doubtless know we are engaged in a suit in the Supreme Court of the United States respecting the boundary between the State of Louisiana and the State of Mississippi in the waters of the Gulf, and one feature of this controversy presented by the State of Mississippi is of a commercial nature. Our contention being that matters of commerce entered into the consideration of the boundary at the time that Louisiana and Mississippi, and especially at the time that Mississippi was admitted into the Union. There is a great deal of historical matter especially in the committee reports of Congress to the effect that each State should have its frontage on the Gulf and water inlets, and as we see from Louisiana's claim by her bill of complaint and by some exhibits and maps that she has filed, this question is of importance to the State and we have asked you to come and testify along this line of commercial interest, believing as I have stated before that these matters enter largely into a proper consideration of the acts of Congress admitting these two States.

By Mr. DYMOND: Counsel for the State of Louisiana now requests of the counsel for the State of Mississippi to disclose under what allegation of their answer and cross bill they set forth these claims, and propose to introduce such evidence as is mentioned in that statement.

1825 By Mr. MCCLURG: Counsel for the State of Mississippi answer this demand first, by saying that they regard contemporaneous history, especially that part of it made by the Congress which created and admitted these States into the Union as being competent to aid the construction of the acts creating and admitting these States.

That such testimony we regard as competent in supporting our denial of the boundary claim by Louisiana, and of the boundary which is claimed by Mississippi in our cross bill, and especially with reference to paragraph 8., of the cross bill where it is set up on the part of Mississippi that the Congress in carving States out of the Louisiana purchase treated the Gulf coast or shore as a line running generally from east to west, and intended to form and bound the States on the Gulf so as to give each State jurisdiction over the waters adjacent to the shore or coast for a certain specified distance southward from its main land line, and that it was not intended by the Congress to give any State jurisdiction over waters adjacent to, and immediately south of, and in front of any other State or Territory. In view of paragraph 8. of the cross bill and of Mississippi's general denial of Louisiana's original bill, and looking to contemporaneous history, it is now proposed to be shown by the witness that the construction of the acts of Congress contended for by us is correct in view of the history of the two States in this section since their admission into the Union, and in view of the present conditions from a commercial point of view.

1826 By Mr. FLOWERS: One of the principal reasons which prompted the Congress in laying off the States along the

Gulf coast so as to give each State jurisdiction over the waters in front and immediately south of the main land was to give to the several States equal commercial advantages. The purpose of the testimony here offered is to show that the conditions along this part of the Gulf coast in controversy are such that the commercial advantages to accrue to the State of Mississippi are involved in this controversy.

By Gen. GUION: Counsel for the State of Louisiana object to any evidence being introduced by the State of Mississippi either in support of the allegations of Mississippi's answer and of her cross bill along the lines announced by counsel for the State of Mississippi because any such evidence as may be offered would be irrelevant and immaterial and inadmissable under the pleadings: that there is nothing in any of the allegations of the bill of complaint filed by the State of Louisiana, in the nature of a claim of any exclusive rights of navigation in the waters between the two States of Louisiana and Mississippi, and no claim made in any of the allegations of the pleadings of Louisiana to any exclusive commercial advantages on said waters.

By Gen. GUION: Counsel for the State of Louisiana specially objects to the line of inquiry which the State of Mississippi has just announced its purpose to persue in the examination of its witness, who has just been sworn, because the statements made by the counsel for the State of Mississippi are of such a character as to amount practically to leading the witness to the answers desired.

1827 By Mr. DYMOND: And that it is improper to state as facts contemporaneous congressional history as facts which by the record are shown not to have been proven as such.

The question was here read to the witness from the stenographer's notes as follows:

Q. As you doubtless know we are engaged in a suit in the Supreme Court of the United States respecting the boundary between the State of Louisiana and the State of Mississippi in the waters of the Gulf, and one feature of this controversy presented by the State of Mississippi is of a commercial nature. Our contention being that matters of commerce entered into the consideration of the boundary at the time that Louisiana and Mississippi, and especially at the time that Mississippi was admitted into the Union. There is a great deal of historical matter especially in the committee reports of Congress to the effect that each State should have its frontage on the Gulf and water inlets, and as we see from Louisiana's claim by her bill of complaint and by some exhibits and maps that she has filed, this question is of importance to the State and we have asked you to come and testify along this line of commercial interest, believing as I have stated before that these matters enter largely into a proper consideration of the acts of Congress admitting these two States. What interest have you if any on the coast Col. Jones?

A. I have large interests at Gulfport, and along the coast between the coast and Ship island.

Q. We would be glad to have you state to the commission in order that the court may learn the conditions existing on the Mississippi Gulf coast, with reference to her maritime and commercial
1828 interests, and in view of showing the effect of a decree establishing the line sought to be established by the State of Louisiana; what you may know about the maritime and commercial interests down there?

A. We have a harbor opposite the city of Gulfport extending over a mile from the main land or shore out into the Mississippi sound, in a direct line towards the light house on the west end of Ship island. We have dredged a channel from the end of the pier or harbor to deep water in the harbor known as Ship Island harbor.

Q. Who do you mean by "We"?

A. Well I will say the Gulf and Ship Island Railroad Company. That is to the deep water known as Ship Island harbor. We have also dredged what we call the Anchor basin, a quarter of a mile wide and a half a mile long with its approaches from the Anchor basin to the mouth of the channel. We have received 320 ships into the harbor within two years and about a half, or in other words about thirty months. We have sent out of the harbor loaded 395 ships up to the first of August this year. We believe that port to be destined to be one — the greatest ports on the southern coast of the United States. With a reasonable and moderate amount on money we believe that the channel can be cut down to 32 feet, also the harbor by which and through which the largest vessels afloat on the gulf of Mexico can go in and out of that harbor without any difficulty. We believe and our experience for the last three years has demonstrated the fact, that the channel can be kept open at a moderate, very moderate expense, and that the harbor can be maintained at a very moderate expense, cheaper than most of the harbors according
1829 to my best information. The channel is the shortest of any along the coast leading from the deep waters of the harbor of Ship island to the harbor of Gulfport, and is one of the most accessible from the waters of the Mexican gulf. We further believe that with the southern terminal of the Gulf and Ship Island road at Gulfport, that we will have one of the most active and best ports in this country. That we can take care of all of the imports, and can deliver a great quantity of exports, especially in lumber for the next 20 or 25 years, as the Gulf and Ship Island railroad runs through and practically controls the finest long leaf timber lands in the southern part of Mississippi. That is, I mean by controls, controls the freight after the timber is cut into lumber.

Any thing that would interfere with that harbor and that channel would be a most serious detriment to the whole State of Mississippi, as the Gulf and Ship Island railroad extends northward 160 miles to the capital of the State of Mississippi and the city of Jackson, connecting with one of the greatest systems of railroad in this State. That its freight can be carried to the north or northwestern territory of this country and can be received from the northwestern

section of this country and delivered through the harbor at Gulfport. The lumber interests to-day at the mouth of Pearl river are being shipped in small vessels or lighters from the mill to the harbor at Gulfport, and they are loaded on to the foreign or export ships, and any thing that would interfere with that would interfere with the harbor interests of the harbor of Gulfport. The great oyster beds that Mississippi has been getting her oysters from lay around and through the various islands south of the main land of Mississippi, as I understand the situation. Several
1830 of us owned an oyster factory at Gulfport and got our oysters from that section which lies south of Mississippi around and close to Cat island and the various islands near by Cat island. I have never known any thing about the lines or controversy between Louisiana and Mississippi at all until I saw this map before me, which is map No. 7, filed by Louisiana, as explained to me by counsel for Mississippi. If Louisiana should have the sole jurisdiction over the islands and the water that the lines on this map No. 7, as shown to me indicates, it would unquestionably deprive the State of Mississippi from getting but very few of the oysters as the oyster beds now exist. As to what effect Louisiana's jurisdiction, or sole jurisdiction of those waters as between the two States would have I don't know, as according to my experience the United States claims jurisdiction over those waters between the State of Mississippi and Cat island.

We were compelled to make a contract with the Government of the United States before we were permitted to dredge any mud from beneath the waters at the south end of the pier at Gulfport as they claimed jurisdiction, and they compelled us to carry the mud that we dredged from the channel over towards Cat island where we were allowed to dump it, and they disregarded the jurisdiction of Mississippi, as our charter rights gave us six miles out towards Ship island and a mile wide, one half mile on each side of our track, which the United States would not respect. I know nothing about the law.

Q. You have reference to the charter granted to the Gulf and Ship Island railroad by the State of Mississippi?

A. Yes sir.

1831 Q. You mean to say that that charter granted you the right out six miles from the coast shore?

A. Yes sir.

Q. And the Federal Government required you to get permission from it to make the channel?

A. Yes sir, the Gulf and Ship Island channel manager located one of its dredge boats just beyond the end of the pier, and the officer in charge of that district; the United States officer in charge of the district notified him that he would arrest him at once if he did not stop and wait until a contract between the Gulf & Ship Island railroad and the United States was executed.

Q. Now calling your attention to map No. 7, Col. Jones and to which you have referred you will note that the blue lines nearest to

Q. Now this map of Wall's reads on its face that it was prepared, and published in accordance with the act of the State legislature in question which is found in the Acts of 1882 of the State of Mississippi, page 26, chapter 18; is an act to organize and regulate the duties of the department of emigration and agriculture pursuant to article 12, section 23 of the constitution and for other purposes, and section 5 reads as follows: "Be it further enacted etc., and it shall be the duty of the State commissioner under the direction of the State board to cause to be made a geographical, geological and topographical maps or charts of this State, showing the various counties with all of their water courses, railroads, location of timber plots, classification of soil, and the number of acres for sale in each county. Industries, towns and internal improvements etc.

Will you please look at this map which is known as Louisiana map No. 32, and state whether you recognize it to be the map prepared in accordance with that act of the Mississippi legislature?

A. Well I will tell you all that I remember about this map. Wall was made the emigration agent, the emigration commissioner, and the object of this little map as I understood it, was like the railroad maps, and like the other little maps that you get up to induce people to come to the country. Nobody regarded this as a map of accuracy or anything of that sort. For instance he puts off here a big scope of country as long leaf pine, and he puts over here another yellow loam region.

Q. You seem to have misunderstood my question. I desire
1818 that the answer shall be responsive to my question. I have not asked you anything about the accuracy of this map at all. I desire you to understand the question and answer it.

By Gen. McCLURG: Counsel for Mississippi insists that the witness answer the question in his own way, and that the counsel for Louisiana will not be permitted to cut him off.

By Mr. DYMOND:

Q. I say you are not answering the question as asked. I don't think you understand it?

A. Let me see the act of the legislature. Now what is it you want to know.

Q. I want to know if you recognize this to be the map prepared in accordance with the act of the Mississippi legislature?

A. It is a map that this man prepared. I don't think it was in accordance with this law. That is the one that he prepared intending it to be in accordance with it I suppose. That is the only one that I ever knew that he prepared.

Q. Now General you never knew of any dispute as to the boundary existing in 1866 or 1871 with any body did you?

A. No sir.

Q. So there was not any reason why the map; either of these

maps should not have been as accurate as the respective parties were able to make them was there that you know of?

A. I never heard any thing of it by them at all. Whether they are correct or not I don't know any thing about that.

Q. Now you are unable to state whether this map of Hardee's known as Louisiana map No. —, and this map of Wall's
1819 known as Louisiana map No. 32. You are unable to state whether they disagree or are in accord with the previous maps so far as the southern boundary of Mississippi is concerned?

A. I can not say about that. But in regard to this map of Wall's, the greater part of his duty was to try and get emigration, and to present the counties and the number of acres of land that were clear and various things. If you want my opinion about the map and his ability I will give it to you?

Q. No, I did not ask you about that?

A. Well I say that it is defined by this law. There are so many duties, but the great object of this law was to bring immigrants here, and to advise them as to the character of the land etc., and this map here, any one would see that it was just one of those little maps gotten up for a specific purpose, just as they get up the railroad maps.

Q. Are you familiar with the maps of Mississippi prior to 1866, especially in regard to the southern boundary of the State?

A. Well sir I could not say that I am. I am pretty familiar with all of the localities of the State and the counties of the State, and I don't know whether there is a county in Mississippi that I have not been in, but I don't remember about the previous maps. I am not familiar with them now and I could not state about that.

Q. Well you have kept in touch with the maps of Mississippi since 1871, with especial reference to the delineation of the southern boundary of the State?

A. No sir, I have not.

Q. Would you or would not you be able to say under these
1820 circumstances how these two maps that you have been talking about compare with the previous and with the subsequent maps of the State so far as the southern boundary is concerned?

A. As I stated this morning my only information in regard to the southern boundary is not from maps, nor is it from information that I had from others, but it is from the act of Congress defining it. That is my opinion on the subject.

Redirect examination.

By Gen. McCLURG:

Q. Governor, you have been examined at considerable length with reference to these maps. The one by Hardee of 1872, and Wall in 1883. If there is any thing on these maps or in connection with the legislation whatever out of which they are claimed to have grown,

within the territory that you have described, and I am told that oysters will thrive upon that small area.

Q. Do you know the extent of the area?

A. No sir, I do not. I understand it to be a fact only as

1851 told me.

Redirect examination.

By Gen. McClurg:

Q. Have you ever known Colonel as to the conditions of the waters with reference to its soft temperature. Its brackishness, in relation to the growth of oysters. Fresh water and the like of that?

A. I am informed by those who grow oysters that they prosper most where they can get a certain amount of fresh water. The fresh water mixed with salt water. Too much fresh water kills them. And in the salt water they don't thrive very well. That is my opinion.

The commission here took an adjournment to meet at nine o'clock tomorrow morning at the State capitol.

1852 Jackson, Mississippi, August 20th, 1904.

Pursuant to the adjournment of the commission on yesterday evening the commission met this morning at nine o'clock at the State capitol, in the attorney general's office to resume the taking of the testimony on the part of the State of Mississippi.

There were present Hon. William D. Bullard commissioner on the part of the State of Mississippi. Hon. Walter Guion, attorney general on the part of the State of Louisiana, and Hon. Frank C. Zacharie, and John Dymond Jr., associate counsel on the part of the State of Louisiana. Hon. William Williams, attorney general of the State of Mississippi. Hon. James N. Flowers, assistant attorney general on the part of the State of Mississippi, and Hon. Monroe McClurg, associate counsel, and P. M. Peyton, official stenographer. The following testimony was taken to-wit:—

Hon. E. H. Nall, a witness introduced on the part of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. McClurg:

Q. How old are you Mr. Nall?

A. My next birthday I will be fifty-five.

Q. You reside in the city of Jackson?

A. Yes sir.

Q. What position do you hold?

A. State land commissioner.

1853 Q. How long have you held that office?

A. Since July 2nd, 1898.

Q. Did you hold any other office in the State before that?

A. Yes sir, assistant secretary of state.
Q. During what period?
A. From 1893 to 1898.
Q. As State land commissioner you have in your official keeping the records pertaining to the public lands of the State have you?
A. Yes sir.
Q. I wish you would state if you have made an effort to have some maps made of our sea coast frontage?
A. About the 20th, of July I sent a request to the Land Commissioner at Washington to send me triplicate copies to the various islands there, but they have been misplaced. Thinking that the maps might have gone to Jackson, Michigan I telegraphed there, and also to Jackson Louisiana, and the replies were that there were no maps to my address at either place.
Q. Have you made any other effort to get them?
A. I telegraphed yesterday to send duplicates of all of them.
Q. When you receive them I will ask you to file them with the commissioner?
A. Yes sir, I will do so.

Counsel for Louisiana state that this is satisfactory to them, with the understanding that when the maps come, if the counsel for Louisiana desire to cross examine the witness he will appear before the commission for that purpose in New Orleans.

1854 Q. This suit Mr. Nall involves a portion of what is termed the marsh lands east of Louisiana and to the south of the State of Mississippi. Have you any records in your office showing any survey of any of that marsh land by the State of Mississippi?
A. Yes sir.
Q. What portion of it?
A. Well there are the section, townships and ranges there on this plat book.
Q. And of these records that you refer to you exhibit these official copies?
A. Yes sir, these are the originals. They have the copies.
Q. That is Grand island and some parts near the mouth of Pearl river. Those appear on these maps?
A. Yes sir, Grand island is right here.
Q. Now I want to call your attention to that part of the marsh that extends from Malheureux point eastward to Isle à Pitre. Is there any record of that part of the marsh land in your office?
A. You will have to call the township and range before I can answer that question General. If there has been any record of it I am unable to find it.
Q. The lands that I ask you about according to the Louisiana maps are in townships 10, 11, 12 and 13, and ranges 17, 18, 19 and 20 east?
A. There is no record of it in my office that I have been able to find.

Q. What can you say if anything Mr. Nall about the ownership of this territory in the townships and ranges above mentioned belonging to the State of Mississippi, and if you know whether the government of this State was ever applied to for the patents for these islands?

A. I don't know. That rests solely with the governor. He
1855 is the one authority to ask for patents from Washington.

Q. Have you ever known as to whether any governor of this State has ever asked for the patents to the land in this territory?

A. I think that Governor Vardeman asked for everything within the 18 mile limit.

Q. Recently?

A. Well it has been several months ago.

Q. No previous governor that you know of?

A. I suppose the other governors, Lowry and Stone have asked for the lands belonging to the State under the swamp land act of 1850. That would take in every thing you know.

By Gen. GUION:

Q. That is only your supposition?

A. That is all.

Q. You don't know anything personally of your own knowledge concerning the matter?

A. No sir, I do not.

By Gen. MCCLURG:

Q. What have you to say about the ownership or possession of this territory within the township and ranges above mentioned belonging to the State. In the State's possessions?

A. Well sir the act creating the boundaries of the State it seems to me would cover that, giving us all of the lands within 18 miles of the shore

Q. Have you any information as to any trouble or controversy of any kind down there prior to the institution of this suit?

A. None whatever.

Q. I mean upon the institution of the suit immediately
1856 before it or leading up to it?

A. No sir.

Q. To the bringing of the suit?

A. No sir.

Q. Under the laws of the State of Mississippi I believe you are authorized as the State land commissioner to make sales of the public lands?

A. Yes sir.

Q. Has there ever been any application to purchase any of these lands since you have been commissioner?

A. No sir.

Q. What sort of act, of possession, ownership or jurisdiction if you

ow has Mississippi exercised in the territory about which we are eaking. I mean by Mississippi, of course, her people.
A. Well our people fished and tonged oysters down there. I be- ve that is the term they use, unmolested.

Cross-examination.

By Mr. DYMOND:

Q. Mr. Nall, do you think you understood the first question that General McClurg asked you in regard to the surveys as shown by your plat book?
A. Yes sir, or I think I would not have answered it.
Q. Did you understand that question when you answered it. I will have it read to you. "This suit Mr. Nall involves a portion of what is termed the marsh lands east of Louisiana and to the south of the State of Mississippi. Have you any records in your office showing any survey of any of that marsh land by the State of Mississippi?
A. Yes sir.
Q. Will you please point out to me any survey made by the State of Mississippi?
A. Oh, no sir. That ought to be or commissions. I am
1857 glad you called my attention to that.
Q. If I understand it this — diagram you refer to in your plat book. That is not a survey made by the State of Mississippi, but it is a survey made by the United States surveyor and is a copy of his notes and plans of survey?
A. Yes sir.
Q. Now will you please look at this plat and point out upon it what land is down as belonging to Mississippi which is in dispute in this case?
A. I can not do that.
Q. Did I understand you to say that you thought that this island which is called Grand island on this map of township 10, south, range 15 west, is by this plan of survey given to the State of Mississippi?
A. I believe this island ought to have gone to the State.
Q. I am not asking you Mr. Nall whether it ought to belong or not. I am asking you whether it does belong?
A. Oh I don't know.
Q. Can you tell in what township and in what sections of that township that island is situated. From the records of the State of Mississippi. Is it not a fact that the only data given in regard to that island is that it says a certain acreage, and it is distance a certain distance from Point Clear and from St. Joseph island?
A. Yes sir, it is so many chains to that point.
Q. That is all it says?
A. That is all it says.
Q. Now will you please look at this diagram, which is marked

Louisiana Document No. 38, and which has already been offered in evidence by Louisiana, and look at the island here marked Half Moon island, and state whether it corresponds in its general formation and location to the island called Grand island on your record?

A. Well it looks the same to me.

Q. Well now will you please state according to Document
1858 No. 38 what four townships go to make up that island?

A. Well according to this it is township 10-17 east; 11-17 east, 10-18 east, and 11-18 east.

Q. Now have you on your records of the State of Mississippi, Mr. Nall, any thing that would give the data that is given by this Louisiana Document No. 38, in regard to thay particular territory?

A. You mean the township and range?

Q. Yes sir.

A. We have not.

Q. Now have you any record on your books to show the selection by the State of Mississippi of this island called Grand island and its approval by the United States office?

A. I never have been able to find it.

Q. Mr. Nall, will you please look at this township plat of township 10, range 15 west, land district east of the island of New Orleans, and east of Pearl river which for the purposes of identification will be known and marked as Louisiana Document—Louisiana 1, and state whether it is the same territory as covered by the plat on your State records of Mississippi concerning which you have testified on direct examination?

A. This is a duplicate of that it seems to me except the fractional township 10 range 15 in the lower left hand corner.

Q. You will notice that the original survey was made in 1824? And approved in 1827?

A. Yes sir.

Q. You will notice that there was a re-approval dated Jackson September 12th, 1846, signed C. A. Bradford, surveyor south of Tenn. What is the Jackson referred to here? What town is that?

A. I have no idea. I don't know whether it is Mississippi o Tennessee. I have referred to my records page 84.

Q. Do you notice that when this particular township wa
1859 approved in 1846 that no reference is made to Grand islan which appeared on the original survey?

A. There is no mention of it here.

Q. I refer now to the approval made in 1846. Was there an reference to the island?

A. The record in my office is dated 1843, and the document th I am looking at, filed by Louisiana is dated 1846.

Q. You have on your records no copy of the 1846 approval?

A. Nothing here. It is not on the records here. All of my re ords bear date 1843 and prior thereto.

Q. Mr. Nall, will you please look at this map called No. which purports to be a photographic copy of the official map of

rnard, and shows the territory south of Half Moon island and
st of a line starting the ranges 17 and 18 east, and state whether
not according to your records Mississippi has ever applied for
y of the lands there shown?
A. Well I don't know whether the governors have or not. I
now that Governor Vardeman has.
Q. When did Governor Vardeman become governor?
A. January 19th, 1904.
Q. Was that since the institution of this suit?
A. I suppose so.
Q. Now so far as your records go as I understand it you find no
record of any selection by the State or approval by the United States
of these lands under the swamp land grant?
A. None whatever.
Q. Now will you please look at this document which is marked
Exhibit G, to the bill of complaint of the State of Louisiana, and
state whether from your familiarity you recognize it as what
1860 is called an extract from the tract book of the United
States?
A. I could only tell from the official signature and the seal.
Q. Have you ever seen that tract book in any of the offices of the
United States land offices?
A. In Washington?
Q. No, in any of the land offices of the United States?
A. No sir, I have never been in a United States land office in my
life. I never have been in this one here. I have no business there.
Q. Have you a tract book in your State office?
A. Yes sir, of the land selected under the act of 1850.
Q. Do the two pages of this book look anything like the two pages
of this Exhibit G, open before you?
A. It has about the same heading. It is in a book though. They
all have simply the township, section and range.
Q. Do you recognize this to be any part of the area in dispute in
this case, for instance take the fourth item of section 13, in township
11 south, range 19 east. Do you recognize township 11, range 19
east to be the disputed area?
A. If this is the disputed area there. 11–19.
Q. And this reads "Selected by State under act March 2nd, 1849,
approved by Secretary of Interior May 6th, 1852.
A. It reads that way.

By Gen. GUION:

Q. Mr. Nall, do you know when Governor Vardeman wrote this
letter that you have just spoken of?
A. I do not.
Q. Do you know to whom he wrote it?
A. To the Secretary of the Interior at Washington.
1861 Q. Hitchcock?
A. Yes sir.

Q. Do you know whether he has received any reply to his communication?
A. No sir, I do not.

By Mr. DYMOND:

Q. Could a copy of Governor Vardeman's letter be gotten?
A. I suppose so by asking for it.

By Gen. GUION:

Q. Now Mr. Nall will you please look at this map which is now before you in this room, which is the map of the State of Mississippi made by T. S. Hardee, State engineer in 1871, and marked with the approval of Governor Alcorn as follows "Executive office, Jackson, Miss. July 4th, 1871, approved under the act of the legislature, approved May 10th, 1871. Signed J. L. Alcorn, governor of Mississippi," and being the same map concerning which Governor Lowry testified in his examination yesterday and state whether or not this map is a part of the archives of your office as commissioner of the land office of the *land* of Mississippi?
A. No sir. I think the governor gave me that map. Governor Longino, and I carried it in there and wrapped it up. I did not use that map or any other map in land matters. When I want a section township and range I go to the plots.
Q. What plats?
A. The original plats.
Q. Governor Longino, as I understand you gave you this map and you have had it ever since in your office?
A. Yes sir you see that is wrapped up. You see those white places on it.
Q. Do you know for what purpose Governer Longino gave it to you?
A. It was hanging up there and one day I asked him for it?
Q. Where was it hanging?
1862 A. In his office. In the governor's office.
Q. Do you know how long it had been there Mr. Nall?
A. I do not.
Q. Did you ask him for it or did he give it to you?
A. I asked him for the map.
Q. What was your object in wanting it from the governor?
A. Some time probably to refer to the township and range, and sections principally. This is a sectional map, and we have maps with no sections in them.
Q. You wanted it then for some uses in your office?
A. Yes sir.
Q. You considered this map did you not as a part of the archive of your office after it was given to you by Governor Longino?
A. No sir, I did not attach much importance to it except to look at the sections now and then.
Q. You did not regard it as your private property did you?

A. Oh no sir.
Q. You regarded it as the property of the State?
A. Yes sir. I would not give three cents for it. You see that map gives the sections and these little maps don't give the sections. That is the difference.
Q. Mr. Nall do you remember the date of your letter to the Land Office in Washington in which you asked for these copies that you spoke of, and that have not reached here?
A. I think it was early in July.
Q. Was it not on the 30th, of June that you wrote?
A. I don't remember.
Q. Did you receive any answer to that letter of yours?
A. Yes sir, that it would be forwarded in a few days.
Q. Have you got that letter from the Interior Department in your possession, if you received any reply to this?
A. I don't know. I gave it to Mr. Smiley, my assistant down there. He is gone and I don't know what he did with it.
1863 Q. Have you a letter from the Department of the Interior signed by J. H. Fimple, acting Commissioner, dated July 9th, 1904?
A. I don't remember.
Q. Addressed to E. H. Nall, land commissioner, Jackson, Mississippi?
A. I don't know sir. I gave all of the letters that I had to be turned over to Gen. McClurg and Mr. Williams and Flowers — to Mr. Smiley.

By Col. ZACHARIE:

Q. Mr. Nall you have been examined with reference to a letter of yours of June 30th, to the Department of the Interior General Land Office, or rather to the Commissioner. Have you a copy of your letter of June 30th?
A. No sir.
Q. What has become of that copy?
A. We never keep copies.
Q. You never keep copies?
A. No sir.
Q. You have no letter press book in which you keep copies?
A. No sir.
Q. Can you remember and state the contents of that letter to the Department of the Interior and the General Land Office?
A. No sir, we wrote so often and for so many different things that I can not recollect.
Q. Do you remember that you received a reply to your letter, the reply being dated in Washington, July 9th, 1904?
A. Well that certified copy that you showed me dated the 9th, is a copy of the original letter that I received.
Q. Have you examined this certified copy?
A. Yes sir, I read it.

from the Government agent who had jurisdiction in the waters along that coast.

Q. That being so and the United States haveing jurisdiction over such waters for the purposes of navigation, how could the State of Louisiana if she succeeded in her claim control the use of the waters within her jurisdiction so as to interfere with the commerce of Gulfport?

A. I have answered that question that I don't think it interfered.

Q. It would not interfere?

A. It would not interfere for I don't believe that Louisiana could control the water there.

Q. Then if Louisiana could control the navigation of the waters within boundaries claimed by her, how could that control interfere with the dredging of your channel from Gulfport to Ship island, or any other Mississippi port?

A. It could not interfere in any way unless they, Louisiana could prohibit the Government from allowing the mud taken from her channel dumped there along Cat island where we dump what has already been taken out. I don't think they could have any thing to say about that.

Q. Certainly Louisiana could not interfere with the entrance or exit of any veaaels to and from the port of Gulfport?

A. I don't think so according to my understanding.

Q. Louisiana is claiming as the boundary line the deep water channel running from the east mouth of Pearl river out between Cat island and Isle à Pitre. She is not claiming the exclusive use of that channel. Now under those conditions how could the

1842 establishment of this line interfere in any way whatever with the commerce of the port of Gulfport, or any other portion of the Mississippi shore lying between the mouth of East Pearl river and Gulfport?

A. I don't see any way for them to interfere unless they can control the exports from Pearl river, and I don't think they could.

Q. Louisiana is not claiming the exclusive use of the deep water channel. She only says that her boundary goes to the middle of the channel; consequently could she in any way interfere with any commerce coming out of the mouth of East Pearl river and coming to Gulfport or any of these ports. You know the Constitution of the United States would prohibit Louisiana or any other State from putting any tonnage tax, or export or import tax don't you?

A. That is my understanding of the law yes sir.

Q. Consequently if the boundary line was established at the middle of the deep water channel running from the mouth of East Pearl river down between Cat island and Isle à Pitre, there could be no interference whatever with the commerce of Gulfport, or any of the places lying between Gulfport and the mouth of Pearl river could there?

A. Not as I understand the law. Louisiana would have no control of the water.

Q. Then to narrow it down you are then of the opinion that the only effect upon the commerce of Gulfport, and of these ports or lands lying between Gulfport and the mouth of East Pearl river would be to prevent Mississippi fishermen from fishing oysters within those boundaries?

A. That is my present opinion and understanding, unless she sees fit to make laws to prevent Mississippi fishermen from catching fish in those waters as well as oysters, and crabs.

1843 Q. Don't you know as a matter of law that she would have no right to prohibit the catching of swimming fish?

A. No sir, I don't understand it that way, but I know who ever catches them can own them if they can get away with them.

Q. Louisiana would have no authority to establish quarantine stations that would affect your ports would she?

A. I think not sir.

Q. Then in so far as the commerce of Gulfport and of these lands and ports lying between Gulfport and the mouth of East Pearl river, you are of the opinion that the commerce of none of these ports would be affected except in the matter of getting oysters?

A. In the matter of getting oysters and shipping them from Gulfport harbor.

Q. You have stated that most of the rosin and naval stores from Louisiana and Alabama were shipped through Gulfport. I suppose you intended to mean those portions of these two States lying near your railroad. You did not mean to say that all of the rosin and naval stores and so on of Louisiana and Alabama were shipped through the port of Gulfport did you?

A. No sir, I meant to state that nearly all of the rosin and turpentine from southern part of Mississippi, and the eastern part of Louisiana, along Pearl river, and the western part of Alabama adjoining the Pascagoula river comes to Gulfport. That was my intention.

Q. Well is not that stating it a little too broadly; that all of the stuff from southern Mississippi. Is there not a portion of it shipped through Biloxi, through Bay St. Louis and Pascagoula and other points?

A. All of it comes to Gulfport in small boats now, and they are prepared for export and interior shipments from Gulfport.

Q. Is not there a considerable portion of this stuff shipped to New Orleans by vessels from Biloxi and Pascagoula and Pass

1844 Christian and Bay St. Louis and other ports for the New Orleans market?

A. No sir, not now. It was a year ago. There are two stores that control that product, and they have combined into one and made Gulfport their principal shipping point.

Q. Don't the rosin factories and the other naval store factories in New Orleans get a good deal of this stuff from along this coast?

A. Not now, They get very little.

Q. You have spoken of this territory between Gulfport on the

Mississippi shore extending to the mouth of East Pearl river as being thickly populated and being divided mostly up into lots. Are there any ports there of export or import?

A. None of any importance.

Q. Then the establishment of the lines by Louisiana at the middle of the deep water channel running from the mouth of East Pearl river down between Cat island and Isle à Pitre could not possibly interfere with any of the commerce at any of the places I have just spoken of except the taking of oysters from the boundary within the deep water channel. That would be all would it not?

A. As I understand the law now that would be all.

Q. Then in substance your testimony would amount to this. That if Louisiana was successful in establishing her boundary as claimed by her it would have no effect from a commercial point of view upon any of the Mississippi ports except in preventing oyster fishermen from taking oysters within that boundary?

A. As the Louisiana law is now according to my understanding that would be the principal loss.

Q. Would there be any other loss and if so what would that be?

A. If she could pass a law prohibiting catching oysters I don't know why she could not pass a law to prohibit catching most anything else.

1845 Q. She could not pass any law controlling the navigation of these waters could she?

A. No sir, I do not so understand it.

Q. Therefore it would not interfere with the commerce or navigation to any of these points would it?

A. I don't think so. I think I have answered that.

Redirect examination.

By Gen. McClurg:

Q. You have been questioned by counsel for Louisiana with reference to the effect tl at the establishment of a line claimed by that State would have upon the commerce at Gulfport harbor, and especially with reference to your opinions with reference to the power of that State to interfere with national commerce. If the jurisdiction of Louisiana should be extended to the middle of the deep water sailing line mentioned, or to either of the blue lines marked, first from the marsh land and second, from Grand pass, and third, from the north east end of Isle à Pitre, and the laws now in effect in the State should be thus extended that oysters taken within the jurisdiction of Louisiana should not be marketed out of the State of Louisiana and if that law should be extended to fish and shrimp and terrapins and lobsters and crabs, and by force of that statute be driven into New Orleans, would not it affect the commerce of Gulfport, and the commerce of the State of Mississippi along that line?

A. It certainly would.

Q. And to a material extent would not it?
A. Yes sir. Now shall I explain?
Q. Yes sir.
A. It would prevent the canning factories being established in Mississippi, and whatever freight or commerce they would
1846 produce, the labor that would be necessary to run them, and the provisions and commerce that are required to support these laborers. To that extent it would injure Mississippi.

By Col. ZACHARIE:

Q. You mean in these particular lines as mentioned. Fish and crabs and so on?
A. Yes, sir.
Q. Would *in* affect it in any other commerce?
A. No, sir.

Mr. MCCLURG:

Q. Col. Jones, you have been invited largely in this examination to deliver matters of opinion, and following that up with the latitude that we have gone into it on both sides can you imagine many great advantages that would flow to the State of Louisana to the disadvantage of the State of Mississippi, if Louisiana's jurisdiction should be extended over those waters according to her daim of the boundary at the deep water sailing line, or at one of these three lines to which I have called your attention?
A. I cannot think now of anything else than I have stated of any serious injury if the Government of the United States keeps control of the navigable water, as they have for years.
Q. Has not the State of Louisiana and the State of Mssissippi or any other State certain powers concurrent with the Federal Government, and subordinate to the general navigation jurisdition of the Federal Government that it could exercise in favor of one State and to the detriment of the other, such as levying taxes upon fishing boats, and the protection of the fish and oysters and other
1847 products of the waters as now provided under the laws of Louisiana?

By Mr. GUION: The counsel for Louisiana objects to this question being propounded and to the same being answered on the ground that the interrogatory calls for the expression of an opinion upon the legal propositions, and is purely a question of law, and also that it is hypothetical.

A. I don't know the laws of Louisiana. Mississippi taxes my dredge boats, and other boats that were in the waters thatthe United States claimed the control of. If Louisiana should do the same I can see the interference of one State with the income and advantages of the other. I can also see that if Louisiana should keep her boundary as laid out here, and keep possession of these isands whatever might be grown or raised on these islands would of course be

a benefit to Mississippi. If there is a drove of cattle on some of these islands, and I think there is on Cat island, I know there is a lot of cattle on that island, but the line here does not include Cat island as I understand it. Should the mud and accumulation of land increase in these islands and become solid land, of course whatever might be grown or raised on these islands would be a detriment to Mississippi, and to the benefit of Louisiana.

Q. What with reference to the products of the water?

A. I think that I have stated all practically that I know about that.

By Mr. FLOWERS:

Q. Col. Jones, there are several oyster packing industries along the coast are there not?

A. Yes sir.

1848 Q. How does this industry along the coast compare with the other industries of the people along the coast. As to size and importance?

A. It is very considerable at Biloxi, and quite heavy at Pass Christian, and Bay St. Louis. The factory at Gulfport burned down and the owners thought it inadvisable to rebuild it until this question is decided.

Q. Col. Jones please state how the oyster packing industry along the coast, compares in size with the other industries along the coast. As to its size and importance?

A. My understanding was that it was the most important *inportant* industry until the Gulf and Ship Island railroad and the harbor at Gulfport was established.

Q. Is it not a fact that even now it is the most important industry along the coast besides the business of the Gulf & Ship Island. Please state whether it is true that it is the most important except that of the Gulf & Ship Island Railroad Company?

A. My understanding is that it is and has been for some years the most important industry at Biloxi, and a very important one at Pass Christian and Bay St. Louis.

Q. From what waters have those oyster packing establishments been supported all of these years?

A. I am told that they came from the same waters and localities that the oysters that were used at Gulfport came from, and of which I own one half. Therefore my information is quite reliable and correct, and that way down among the islands that the deep water line here would deprive Mississippi of getting the oysters.

Q. Please state whether it is a fact that all of these oyster industries along the coast have been principally supported by fishing the waters claimed here by Louisiana?

1849 A. I can not state as to the fishermen, but as to the oysters my information is quite positive on that.

Q. Please state whether the fishing industry is quite important along the coast.

—. ——.

Q. Please state where these concerns ship their oysters principally.
A. My information is mostly to the interior and our own country. Many of them going over the Gulf & Ship Island railroad.
Q. Do you know as a matter of fact whether there are any of them shipped to foreign countries?
A. I cannot say that I know that to be a fact being shipped from Mississippi. I have never seen any ships carrying them. I will not say that they do not.

Recross-examination.

By Gen. GUION:

Q. Col. Jones, are you able to state what the area is between the eastern mouth of Pearl river as far as the—following the deep water sailing line you see on the map there marked No. 7, as far as the point where that channel enters between Cat island and Isle à Pitre, and north of that between the Mississippi main land and that deep water sailing channel. Can you give us an approximate estimate of the water area north of the sailing line?
A. I cannot sir except by measuring it here on the map.
Q. You could not give us an approximate?
A. No sir.
Q. Could you measure it and give us an idea?
A. With a map with so small a scale I doubt if I could sir.
Q. Do you know the distance from the Mississippi main
1850 land to Cat island?
A. Seven miles as near as we can estimate it. Eight miles from the main land and seven miles from the end of the pier.
Q. In a direct line north and south I mean can you give me the distance from the main land of Mississippi to Cat island. Do you know the distance. I don't mean from Gulfport. Is Gulfport out north of Cat island?
A. It is very nearly sir.
Q. Nearly due north?
A. Yes sir, in fact it is exactly due north.
Q. Well now what is there to prohibit the planting of oysters in all of that water territory there from that point; from the point that would be found by carrying the line due north and south between Gulfport and Cat island, and west between the deep water sailing line and the eastern mouth of Pearl river?
A. I know little about the raising of oysters except what I have been told in the last several years, but I am informed that the mud, soft mud, is so thick, or rather the depth of the soft mud at the bottom of the water as is such as to smother the oysters and they can not thrive. That is my information sir. I don't know it by experience.
Q. Well Colonel Jones, do you know as a fact that no oysters have ever been fished in the territory that I have just described to you?
A. There are spots and localities where there is a sand bottom

Q. It would appear from that that you had made application for certain certified copies of certain maps. Do you remember that you made such an application?

1864 A. Yes sir.

Q. This letter was a reply to that application?

A. Yes sir.

Q. Do you remember if with that reply to your letter, that is the letter from the land office of July 9th, there were certain enclosures made in regard to the maps and the data for which you inquired?

A. What do you mean by enclosures?

Q. In this letter from Fimple, acting commissioner who signs it says by reference to the enclosed portion of the map of the State of Louisiana, it will be seen by a line drawn parallel to the north shore line of Lake Borgne and Mississippi sound at the distance of six leagues therefrom, would include portions of townships 11, 12, 13 south, ranges 17, 18 and 19 east; and townships 10, 11, 12 and 13 south, range 20 east, St. Helena meridian, in St. Bernard parish Louisiana. In which will be found many tracts of land surrounded by water and which would therefore be denominated as islands, but which are in fact hummocks of land, surrounded by the marsh and swamp in said townships. Now Mr. Nall, you will notice that the acting commissioner in this letter refers to *to* an enclosed portion of the map of the State of Louisiana. Do you remember whether you received the portion of the map of the State of Louisiana with the letter that you received?

A. Yes sir.

Q. Now will you please examine these two tracings and see whether they were the portions of the map of the State of Louisiana which were enclosed to you?

A. I don't know, I will have to refer back to that map. Mr. McClurg has got it there somewhere.

Q. Will you get it please sir and look at it. Then I understand you to say Mr. Nall that these tracings of maps which I have shown you were copies of the same that were enclosed in the letter addressed to you on the 9th of July from the land office?

1865 A. I could not tell you from this. I would have to see the map that he enclosed to me first.

Q. Now will you examine this memoranda which was forwarded o me at the same time, in response to my inquiry for the correpondence between Mr. Nall and the Commissioner of the Land Office, nd was sent to me under cover, that being a part of the correpondence?

A. This seems to be a copy of the letter that I received. This eems to be the same.

By Col. ZACHARIE: The counsel for Louisiana offers in evidence n this cross examination a certified copy of the letter of J. H. imple, acting Commissioner of the General Land Office of the Dertment of the Interior, dated Washington D. C. July 9th, 1904,

nd addressed to E. H. Wall, State land commissioner Jackson Mis-
sissippi, to be marked by the commissioner Exhibit Louisiana 2.,
and also a memoranda headed Matter of Islands Louisiana and
Mississippi in pencil, Louisiana two pages and Mississippi three
pages, all in pencil, to be marked Exhibit Louisiana 3., being mem-
oranda which have been testified to by Mr. Nall, the witness, as
having been enclosed in the letter aforesaid on July 9th, 1904., from
the General Land Office, marked Louisiana 2.

Q. Then I understand Mr. Nall that the two documents purport-
ing to be tracings of this territory which I have shown you, and
have asked you if copies identical with the same were not enclosed
in the letter to the land office of July 9th, 1904, and you could not
testify without reference to the original?
A. No.
Q. Do you know where that original is?
A. No sir, I do not.
Q. Do you not keep such documents on file in your office?
1866 A. What pertains specially to my office I generally keep
those things. My impression is that I turned every thing
over to Mr. McClurg, or some body in this attorney general's office.
Mr. Smiley might possibly have them in his desk.
Q. Who is Mr. Smiley?
A. He is the man that stays in my office.
Q. You might possibly have turned them over to Mr. Smiley. Is
e a clerk in your office?
A. He is not.
Q. He is not employed by the State?
A. No sir, but he works in the office and then gets out side work.
Q. Where is Mr. Smiley now?
A. He is in Crystal Springs.
Q. When will he return if you know?
A. I don't know.
Q. What are his initials?
A. John M. Smiley.
Q. Does he reside in the city of Jackson?
. Yes sir.
. Could he be reached by a subpœnae?
. Yes sir.
. A *subpœnae duces tecum* if we desire to issue one?
Yes sir.
You in response to this letter from the Land Office of the 9th,
ly. Did you order any of the maps or plots which are therein
ioned?
Yes sir, three copies of each.
When?
I don't remember the date. I think it was about the 28th.
28th July?
Yes sir.

Q. You have not received them yet?

A. No sir, they have been misplaced. We have telegraphed for them.

1867 Q. Do you know or could you remember the number of maps certified copies of which you requested?

A. Here is the letter requesting it as follows:

Triplicate tracings of plot showing Deer, Ship, Cat, Round island, St. Joseph, Grand island, Half Moon, Petit pass, and an unnamed island presumably Isle à Pitre.

Q. Will you count there and state how many of the maps?

A. Nine.

Q. Those maps thus called for did not—the copies of plats did not embrace all of the maps or plots which the acting Commissioner described in his letter of July 9th, 1904?

A. No, they included Cat, Round, St. Joseph, Grand, Half Moon, Petit pass, and an unnamed island mentioned in the Commissioner's letter, and also Marianne and Malheureux islands.

By Mr. DYMOND:

Q. Mr. Nall, do you know whether or not the secretary of state of Mississippi has in his archives, or in his office, copies of this map of Mississippi of T. S. Hardee, approved by J. L. Alcorn, governor, May 10th, 1871?

A. I don't know sir.

Q. You don't know then whether there were furnished on application copies of this map from his office?

A. I do not.

Q. Mr. Nall, the Congressional Library at Washington has a copy of the Hardee map of 1868 of Mississippi, made under the administration of Governor Humphries. Could you tell whether or not a copy of that map is in any of the departments of the State government of Mississippi here?

A. I could not.

1868 By Gen. MCCLURG: The counsel for Mississippi excepts to the statement as to the map being in the Congressional Library at Washington made under the administration of Governor Humphries in 1868.

By Mr. DYMOND: The attention of the counsel for Mississippi is called to the report of Mr. Hodgkins already introduced in evidence which substantiates the statement just made by counsel for Louisiana.

By Gen. MCCLURG: And the counsel for Mississippi as it has heretofore done excepts and objects to Mr. Hodgkins' letter referred to by counsel for Louisiana to F. A. McLean, to whom Mr. H. Heidenheim had applied as his local Congressman to be furnished with certain records, and instead of furnishing the records called for by Mr. Heidenheim through Congressman McLean, Mr. Hodgkins turned lawyer, and gives us what the counsel for Mississippi con-

siders an uninvited opinion from a subordinate of the United States Coast and Geodetic Survey.

Redirect examination.

By Gen. McCLURG:

Q. Mr. Nall, counsel for Louisiana have asked you many questions about the Hardee map which it seems was either directly or indirectly the result of a message to the Mississippi legislature by Governor Humphries an act of the legislature passed pursuant to his recommendation, and several years later by a legislature composed largely of ignorant negroes and an irresponsible set of people commonly called carpet baggers. It will be noted that this map made by Hardee not only undertakes to be a map of the State of Mis-
1869 sissippi, but also of a large portion of the State of Louisiana. Our contention being that the map is wholly unreliable as to Mississippi and wholly without authority as to that part of it covering a portion of the State of Louisiana.

I want you tell the commission what you may know of the political conditions of Mississippi from the time that Governor Humphries recommended the publication of an official map of the State in 1866, *and the* until the appearance of this map after the action of the legislature respecting the same in 1871. Tell us what you may know of the political conditions existing in this section of the country at that time?

A. Well General I will have to answer that in my own way from my recollection. I recollect from the time the radicals were in power.

Q. You are a native Mississippian are you not?

A. Yes sir, I think from 1866 to 1875 we were struggling under the most corrupt government of any people that ever lived. I cannot place the date exactly, but I mean from the time the radicals came into power under the military rule up to 1875.

Q. You have been asked many questions respecting this map as being an official document in the archives of the land commissioner of the State of Mississippi, and of the secretary of state of the State of *the* Mississippi. I want you to tell this commission in order that the court may get a correct estimate of the value of this map how it has been valued by you as land commissioner, and so far as your personal knowledge or general information may extend, as to its value as an authentic record of the State of Mississippi?

1870 By Gen. GUION: Objected to by the State of Louisiana through her counsel on the ground that the answer of the witness to the question which is propounded would be an expression of opinion on a question of law, as to the weight to be given and attached to the map referred to as an official map.

A. It does not serve me any more than any other ordinary map of the State of Mississippi in my business.

Q. If you are able to state whether in the making of this m
there was any purpose within the perview of the act supposed
have authorized it, or upon the face of the map itself indicating th
location of the boundary in the waters of the Gulf between Missi
sippi and Louisiana tell us what you have to say on that subject.

By Gen. GUION: Counsel for Louisiana objects to this questio
and the answer of the witness thereto on the ground that the act
the legislature calling and providing for the making of a map is th
only evidence that should be considered on the subject of the objec
and purposes for which the map was made.

A. I can only say what I believe about it General.

Q. Well say that.

A. I don't believe any man has ever made a map for Mississippi
or Louisiana that knew any more about the dividing line that is
now in contention than we do about the burial place of Moses.

Q. Counsel for the State of Louisiana Mr. Nall have catechised
you particularly with reference to your correspondence with the De-
partment of the Interior with reference to furnishing certain maps
to the territory in dispute in this case, and more especially with
reference to your letter to the Commissioner of the Land
1871 Office at Washington D. C. written prior to the 9th of July
1904, about say the 30th of June. I want to ask you whether
or not this correspondence was the result of a request made by the
counsel for the State of Mississippi to secure certain maps of the Gulf
coast embraced in this controversy?

A. Yes sir.

Q. I hand you a letter, the original letter written to you by Mr.
McClurg, one of the counsel for the State of Mississippi on July 16th,
1904, and in order that it may be incorporated into the record in
this case I will ask you to read it?

A.—

"GREENWOOD, MISS., July 16th, 1904.

Hon. E. H. Nall, Jackson, Miss.

DEAR MR. NALL: I herewith return a letter from the Department
of the Interior of the 9th, inst., with reference to the cost of photo-
graphic copies and tracings of the islands on our southern coast. I
wish you would get certified copies, three each, of the following isl-
ands. Cat, Round, St. Joseph and Grand island, and what the Com-
missioner calls an unknown island. I don't think I can be mistaken
in my recollection of the original survey and plats of 1827. I think,
which we looked at in your office, showing that at least Half Moon
island was designated as belonging to the State of Mississippi, and I
believe Grassy island. In fact it was a tracing of this original sur-
vey and plat or Lake Borgne south of Hancock county which we
looked at in your office that we wanted. If you can get the depart-
ment to make an exact copy, not photography, but a true copy of the

same size and dimensions with the scales if possible of that
1872 original plot, it will be infinitely better.

We would want nevertheless in addition to the copy I have just spoken of properly certified, *or* three photographic copies, or of that and other outlines above mentioned. I also return that portion of the map of Louisiana enclosed to you by the Commissioner. I remember seeing the original of which this map was made, and with the coloring of the marsh territory designated as St. Bernard was done at the instance of Louisiana since the institution of their suit against Mississippi, and for the purpose of so coloring this marsh territory as to indicate that it belonged to the State of Louisiana, and then to have three maps made.

Let us have as quickly as possible the copy and photographic tracings of Cat, Round, St. Joseph, Grand, Half Moon, Petit pass, and the unnamed island mentioned in the Commissioner's letter and also of the Marianne and Malheureux islands. Please be careful to instruct the Commissioner not to have any copies made from any Louisiana survey or any other survey made showing any of these islands to be within the State if he can get them elsewhere. The truth is at the time of the admission of the two States into the Union there was no St. Bernard parish, and not until perhaps thirty years or more afterwards. The territory that is in dispute, and much that is not in dispute not being regarded as belonging to Louisiana. These latter day maps made by Louisiana not only create confusion but do us an injustice. Now *them* in addition to the copies above called for and in answer to — the Commissioner's letters explain we would like to have three copies of the plots showing on one paper as large as convenient 2 x 3 feet, all lands and islands
south of the shore of Lake Borgne and Mississippi sound in-
1873 cluding island- and bayous and lakes that are within the six leagues of the Mississippi shore, but not made from the Louisiana map. We want an impartial copy from a just survey. I will thank you to ask the Commissioner to give you the oldest data in his office respecting Isle à Pied, now called Isle à Pitre, especially whether there was ever on that island any military reservation. It is necessary for us to have the copies above called for by the eighth of August, when we begin our final taking of testimony in chief.

Very respectfully,

MONROE McCLURG."

Q. Following up the interrogation on the part of the State of Louisiana I wish you would state whether or not you complied with the wishes of Mr. McClurg as stated in his letter just read to you by calling on the Department of the Interior for the maps designated by him. Have you any copy of the letter that you wrote to the department?

A. No sir.

Q. I have here Mr. Nall a letter dated July 28th, 1904 which purports to have been a reply to a letter which you must have

written to the General Land Office at Washington, as request
Mr. McClurg, and in order that it may be incorporated in the
I will ask you to read it?

A.—

"DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C., July 28th, 19

Hon. E. H. Nall, State land commissioner, Jackson, Mississipp

SIR: Complying with your request contained in your letter
18th, inst., and returning herewith letter from Atto
1874 Monroe McClurg, together with section of State map. I
to state that the following certified copies have been sent
under separate cover. Triplicate tracings of plats showing
Ship, Cat, and Round island- 1847, $2.25 each—$6.75. Tripl
photo lithograph of St. Joseph and Grand island- 1828, 50
each—$1.50. Triplicate photo lithograph of Marsh, Half M
Petit pass, and an unnamed island 1846—50 cents each—$1.50.

Triplicate photo lithograph of T. S. 10, 11 S. R., 20 E. 1847, s
ing as it is presumable Isle à Pitre though not named. Six co
at 50 cents each —$3.00, total due for certified copies without
$12.75. Mr. McClurg speaks of a plot of 1827 "showing Half M
island as belonging to Mississippi" a plot approved August 1
1828 according to the survey of 1827, which shows Grand islan
presumably the same. There is no data on file in this office sh
ing Marianne and Malheureux islands except an official ma
John Melish about 1819, showing Malheureux islands laying sou
east of the island called Peas "which" is in all probability the sa
island that later on was designated as Grand according to the M
sissippi survey, or "Half Moon by the Louisiana survey."

There is no record in this office that there ever was any part
Isle à Pied or Isle à Pitre reserved for a military reservation.
McClurg asks for the oldest data referable to this island. The o
data on file in this office of the township plats of which ph
lithographic copies have been forwarded, as above where this offi
has sent copies of Louisiana plats, it was the only information on
relative to the islands in question. This office is not auth
1875 ized to construct special documents for township plats a
maps and naturally does not enter into any question betwe
States as to their relative ownership of particular tracts.

Very respectfully,
J. H. FIMPLE,
Acting Commissioner."

Q. As I understand from your examination in chief you have n
yet received the maps which the Commissioner states in his lett
that he forwarded to you on the 28th, of July last?

A. No sir.

Q. And have you requested him by telegraph to send you anothe
copy of these maps?

A. Yes sir.

Q. Identical as called for in your previous letter?
A. Yes sir.
Q. And this it has been agreed may be filed in this suit?
A. Yes sir.

Q. I notice Mr. Nall that in your correspondence with the department at Washington, and to which counsel for Louisiana have called the attention of the commission volunteer, as did Mr. Hodgkins in his letter to Mr. McLean to make certain statements with reference to the boundary between Mississippi and Louisiana, and as to where certain islands or waters are, according to their gracious understanding of the matter. We want you to state as an officer of the State and in charge of its land records, whether any of these voluntary expressions made by the heads of the department at Washington or any of their subordinates have been recognized as binding upon either of these States, especially the State of Mississippi?

A. No sir, not as to the State of Mississippi. I know nothing about the State of Louisiana.

1876 Q. If you have in your keeping any other correspondence with the Interior Department relative to this matter we would be glad to have you read it to the commission in order that we may incorporate it in the record?

A. I have no other.

By Mr. FLOWERS:

Q. Mr. Nall how long have you been in public office in this State?

A. Land commissioner—I have been in office since 1892.
Q. What positions have you held?
A. Assistant secretary of state. This morning I said I was assistant secretary of state from 1893 up, but before that I was appointed by Governor Stone to adjust the direct tax commission, to refund the money. I did not put that in because I just commenced as assistant secretary of state.
Q. At that time did the secretary of state's office have any thing to do with the land records?
A. Yes sir, it had charge of the Chickasaw school lands.
Q. Any others?
A. No sir.

Q. When did you first hear that Louisiana claimed any part of the land of our territory with 18 miles of Mississippi's shore line, main land?

A. Since this controversy. I don't know when it commenced.

Q. When did you first learn that the islands in dispute south of what is claimed by Louisiana as the deep water channel through Mississippi sound had been approved to the State of Louisiana by the United States Land Office?

A. Since this morning. I believe you showed me the documents. Mr. Dymond did.

Q. Before that had the land commissioner's office so far as you

know ever heard of that application by the State of Louisiana to
United States Land Office for these lands under the sw
1877 land acts of about 1850?

A. I can not answer only for myself. I never heard
Q. When did you first hear that these lands had been appro
to the State of Louisiana by the United States Land Office?
A. From the document shown to me by Mr. Dymond this m
ing.

Q. Your office so far as you are concerned did not know t
Louisiana laid any particular claim to this particular land?
A. No sir, I did not know it.

Recross-examination.

By Col. ZACHARIE:

Q. Mr. Nall, did I understand you correctly in your examinati
in chief to testify that you did not consider the Hardee map issu
or published in 1867 or 1868 as being any more authoritative
carrying any more weight than any other map published by a
other person?

A. As far as my office is concerned and the busi*b*ess connecte
with it I do not consider it any more than any other map that wa
ever published.

Q. Now let me read to you from the official records of the Stat
of Mississippi the history of the production and publication of tha
map. I read now from the governor's message of Governor B. Hum-
phries of October 16th, 1866 to the senate and house of representatives
of the State of Mississippi, page 17, in the volume entitled Senate
Journal of Mississippi 1866 and 1867, the official edition. "I deem
the publication and distribution of a State map to the various State
and county officers, whose business requires the possession of one a
matter of sufficient importance to call your attention to it. It should
contain a correct delineation of every thing of importance and in-
formation that it can embody, and be a reference not only to
1878 our officials and to all persons interested in the affairs of the
State, whose correctness should settle all doubts upon any
points or subjects it embodied." Then in accordance with the then
governor of the State of Mississippi the legislature of 1866 passed,
page 27, chapter 17, Laws of Mississippi 1866 and 1867, official
edition, an act entitled "An act to create the office of State engineer
for the purpose of compiling a new State map under certain con-
ditions.

SECTION 1. Be it enacted That the governor is hereby authorized,
to appoint a State engineer, whose duty it shall be, under his direc-
tion, to compile a geographical, historical and statistical map of the
State; said map to be not less that five feet by three feet in size, to
contain such information as the governor in his judgement shall deem
necessary, and before publication to receive his sanction and ap-
proval."

Then under section 3 of the same act it is provided that this State engineer shall furnish a number of copies of said map for the use and benefit of the State, as will carry out the following schedule for distribution, viz.—the secretary of state to whom the maps will be delivered shall cause three copies to be furnished to each county in the State, to become the property of said counties, and for use respectively in the offices of the sheriffs, and the circuit and probate clerks, at each county site in the State.

He shall also supply the different State offices at the capitol each with a copy, and six copies for the State university, and besides those shall have delivered to him such additional copies as will enable the governor to exchange for maps of other States and Territories, and the maps so received in exchange shall become a part of the property of the State library.

1879 SECTION 4. Be it further enacted, That it shall be the duty of the different county officers throughout the State to afford the State engineer every facility for obtaining such information as he may require in the compilation of said work."

Now if it be shown that the governor did appoint T. S. Hardee in 1866 and 1867 State engineer under this act. That he qualified as such; that he prepared this map which was approved by the then governor of the State, and that these copies were distributed according to the terms of this act, and that the object of the preparation of this map was in accordance with the suggestion of the governor contained in his message that it should contain a correct delineation of everything of importance and information that it can embody, and be a reference, not only to our officials, but to all persons interested in the affairs of the State, whose correctness should settle all doubts upon any points or subjects it embodied. Now after having read to you these extracts from these official documents, are you still of the opinion that the map so prepared should have no more weight or authority that any other map prepared by other outside parties?

A. For my use, yes sir. Any other map would do me just as well in my official capacity.

Q. Is not the effect, intent, purpose and object of this recommendation of the governor as well as the act passed in pursuance thereof; that this map should be an official map, settling beyond question and beyond doubt all questions, and binding upon the officers of the State in as far as matters and things that are set forth on the map. Is not that the plan, intent and purpose of the map?

By Mr. FLOWERS: Counsel for the State of Mississippi interposes an objection to this question because it calls for the witness's opinion upon matters of law.

1880 By Col. ZACHARIE: To which objection counsel for the State of Louisiana reply that the opinion of the witness has already been called for in his examination in chief by the counsel for the State of Mississippi as to what weight and authority should be attached to this map.

By Mr. FLOWERS: I wish to add to my objection on the pa
State of Mississippi that the laws speak for themselves.

A. I still do not regard it any better that any other map. I
not go to it any oftener than I would to Rand & McNally's
body's else.

Q. Has there been any official act on the part of the legisla
the State of Mississippi repudiating or calling in question t
rectness of any of the details embodied in this map?

A. I have never heard it discussed.

Q. Have you ever heard prior to the institution of this su
correctness of this map in any particular called in question b
body. Officers or any one else?

A. No sir.

Q. Has it or has it not been the custom in suits in the St
Mississippi in the State courts of Mississippi in locating places
other matters concerning the territory in Mississippi to refer to
map as an authority in the determination of questions and locali

A. I don't know.

Q. Do you know whether this map has been exhibited; poste
the various offices of the State of Mississippi. Public offices, whe
State or county offices?

A. No sir.

Q. You don't know?

A. No sir.

1881 Redirect examination.

By Gen. MCCLURG:

Q. Mr. Nall, by permission of the counsel of Louisiana and
order to get it incorporated in the record now, furnishing Louisia
a copy, counsel for the State of Mississippi will now read to you
document copied from Goodspeed's History of the State of Mississip
published I think in 1891, and to make the testimony pertinent t
proposition is to ask you whether you regard the lines fixed in th
statement as the true boundary lines of this State, and with that vie
I read you as follows:—

"Biographical and Historical Memoirs of Mississippi.

Chapter 1. Topography and Natural History and Paleontology.

Mississippi is bounded on the south by the north line of southeas
Louisiana, Pearl river and Mississippi sound and the gulf of Mexico
on the east by the west line of Alabama, and on the northeast by
the Tennessee river; on the north by the south line of Tennessee
(latitude 35 degrees), and on the west by the Mississippi. It embraces
also the islands in the gulf of Mexico, within six leagues of the shore
viz:—Isles Dauphine, Ronde Corne, Au Chevreul, Au Vasseau, Ai
Chat, St. Josephs, Grand island, and a few smaller bodies of elevated

sand, and the territory extending from latitude 30 degrees, to latitude 35 degrees north, and from longitude 11 degrees and 25 minutes west, to 14 degrees 33 minutes west. The area in square miles, as stated in the United States census report is 46,810, the local authorities place it as 55,500.

The width of the State, on a line of latitude 35 degrees, as 120 miles, on latitude 31 degrees, 186 miles and on the Gulf coast, 78 miles.

The length of the State on a line of longitude 12 degrees 30
1882 minutes, being the greater line, is 330 miles., but the frontage on the Mississippi is continental in its proportions."

A copy of this quotation is filed in this cause as Mississippi Document No. 48, and duplicates thereof now handed to the counsel for the State of Louisiana?

A. Yes sir, it is regarded as the true boundary line of the State.

The counsel for Mississippi now introduces the following documentary evidence, and hands to counsel for the State of Louisiana true copies of each, that is to say:—

Mississippi Document No. 49, being an extract from article 9, chapter 13, (public health and safety) taken from Mississippi's Hutchinson's Code 1798 to 1848, entitled "An act to prevent the destruction of oysters in the waters of the State of Mississippi"—July 26th, 1843.

Chapter XXVI, Revised Code of Mississippi 1857. An act for the preservation of game and oysters in this State.

Chapter 30 of the Revised Code of Mississippi of 1871, being "An act in relation to the preservation of game and oysters."

Section 956 of the Revised Code of the State of Mississippi 1880 "Power of boards of supervisors."

And chapter LXXIV, Laws of Mississippi 1884 (page 89), "An act to *amend* chapter 29, Revised Code of 1880," approved March 18th, 1884.

And chapter LXXXIII, Laws of Mississippi 1884, page 88, approved March 13th, 1884.

And chapter CVI of the Laws of the State of Mississippi of
1883 1886, page 180 "An act to encourage planting oysters, and for other purposes." Approved March 4th, 1886.

And chapter 90 of the Laws of Mississippi of 1888 "An act to amend an act entitled An act to encourage the planting of oysters and other purposes," approved March 7th, 1888.

And chapter 194 of the Laws of Mississippi of 1890, page 304 "An act to protect the public oyster reefs in the counties of Jackson, Harrison and Hancock," approved Feb. 27th, 1890.

And chapter 96 of the Annotated Code of Mississippi of 1892, "oysters, crabs, fish and shrimp."

And chapter 129 of the Laws of Mississippi, 1896, page 142 "An act to regulate the fishing of oysters and crabs, fish and shrimp in the gulf of Mexico and Mississippi sound and to increase the public

revenue by leasing public oyster grounds, and to repeal chapter 9[illegible] of the Code of 1892," and chapter 58 of the Laws of Mississippi of 1902 "An act to regulate the fishing and canning of oysters in the State of Mississippi, improving and enlarging oyster beds in the Mississippi waters, and to repeal chapter 96 of the Annotated Code, chapter 129 of the Laws of 1896, an- chapter 90 of the Laws of 1898," approved February 13th, 1902.

And chapter 113 of the Laws of Mississippi of 1904. "An act to make an appropriation to purchase or build a patrol boat for the use of the board of oyster commissioners, and the inspectors appointed by said board in patrolling the waters of the Mississippi sound, and protect the natural reefs in said sound."

1884 Counsel for Mississippi next introduces in evidence as Mississippi Document No. 50.

An extract from the proclamation of the King of England of date October 7th, 1763, taken from the Annual Register for 1763 volume 6 page 208.

Counsel for Mississippi introduces as Mississippi Document No 51, being an extract from a letter of the King of France to M. d'Abbadie, ordering him to deliver to Spain the French possessions in North America of date April 21st, 1764.

Counsel for Mississippi introduces Mississippi Document No. 52, being an extract from a letter of James Madison, Secretary of State, to Robert R. Livingston, minister to France, September 28th, 1801.

Counsel for Mississippi introduces Mississippi Document No. 53, being an extract from the letter of Albert Gallatin Esq., to James Madison of date February 7th 1803.

Counsel for Mississippi introduces Mississippi Document No. 54, being a letter of Secretary of State Madison to Monroe, minister to Spain dated July 29th, 1803, taken from the American State Papers (Foreign Relations) vol. 211, page 206.

Counsel for Mississippi introduces in evidence Mississippi Document No. 55, being an extract from a letter of instructions, addressed to Monroe April 15th, 1804, as minister extraordinary to the court of Spain, with which was enclosed draught of agreement to be proposed and obtained if possible.

American State Papers (Foreign Relations) vol. 2, pages 628 and 629.

1885 Counsel for Mississippi introduces in evidence Mississippi Document No. 56, being a letter of James Madison to Monroe and Pinckney of date July 8th, 1804.

American State Papers (Foreign Relations), vol. 2, page 630.

Counsel for Mississippi introduces in evidence Mississippi Document No. 57, being an extract from the message of Thomas Jefferson, President of the United States, and both houses of Congress November 8th, 1804.

State Papers, volume 5, 1803 to 1807, second edition published in 1817, page 27.

nsel for Mississippi introduces in evidence Mississippi Docu-
No. 58, being an extract from a letter from Monroe to Tally-
lated November 8th, 1804.
American State Papers (Foreign Relations), vol. 2, page 634.

nsel for Mississippi offer in evidence, and introduce Missis-
Document No. 59, being a letter from Tallyrand to General
rong, of date December 21st, 1804.
American State Papers (Foreign Relations), vol. 2, page 635.

nsel for Mississippi introduces in evidence Mississippi Docu-
No. 60, being an extract from the letters of Monroe and Pinck-
Mr. Cerallos, dated January 18th, 1805.
American State Papers (Foreign Relations), vol. 2, page 637.

nsel for Mississippi introduces in evidence Mississippi Docu-
No. 61, being an extract from the letter of Mr. Madison and
onroe, of date May 23rd, 1805.
American State Papers (Foreign Relations), vol. 2, page 633.

Counsel for Mississippi introduce in evidence Mississippi
Document No. 62, being the people's application, by people
st Florida to be annexed to Mississippi Territory, of date No-
r 20th, 1811.
American State Papers vol. 21, Miscellaneous vol. 2, executive
page 155.

nsel for Mississippi offers in evidence Mississippi Document
, being an extract from the letter addressed to the Secretary
e by the minister of Spain, of date December 30th, 1815.
American State Papers, (Foreign Relations) vol. 4, page 423.

nsel for Mississippi introduce in evidence Mississippi Docu-
No. 64, being an extract from the letter of the Secretary of
o the minister of Spain of date January 19th, 1816.
American State Papers, vol. 4, page 425.

nsel for Mississippi introduces in evidence Mississippi Docu-
No. 65, being an extract from the letter of the minister of
to the Secretary of State, of date Feb. 22nd, 1816.
American State Papers (Foreign Relations), vol. 4, page 427.

nsel for Mississippi introduces in evidence *as* Mississippi Doc-
No. 66, being an extract from the letter to the minister of
rom the Secretary of State, of date June 10th, 1816.
American State Papers (Foreign Relations) vol. 4, pages 429,
430.

Counsel for Mississippi introduces in evidence Mississippi
Document No. 67, being an extract from a letter of Don. Jose
, to Mr. Erving, of date, August 17th, 1817.
American State Papers (Foreign Relations) vol. 4, page- 446
447.

Counsel for Mississippi offers in evidence Mississippi Document No. 68, being an extract from a letter of Don Luis, to the Secretary of State, of date January 5th, 1818.

American State Papers, (Foreign Relations), vol. 4, page 455.

Counsel for Mississippi now offers in evidence a map entitled "Mississippi Territory, Miles, taken from Carey's General Atlas, improved and enlarged, being a collection of maps of the world and quarters, their principal empires and kingdoms, etc. Published by M. Carey 121 Chestnut St. Philadelphia, 1816. A copy of this map will be filed as a part of the record in this case, and duplicate thereof furnished to the counsel for Louisiana, and will be numbered Mississippi Document No. 69.

Counsel for Mississippi also introduce in evidence a copy of a map heretofore introduced by the State of Louisiana made by Andrew Ellicott, late commissioner on behalf of the United States during a part of the year 1796, and the year- 1797, 1798, 1799 and a part of the year 1800, for determining the boundary between the United States and a part of the possessions of His Catholic Majesty in America, containing occasional remarks on the situation, soil, rivers, natural productions, and diseases of the different countries, on the Ohio, Mississippi and gulf of Mexico etc., published by William Fry of Philadelphia in 1814. This map will be found in Ellicott's Journal above mentioned between pages 202 and 203, and as filed with the commissioner in this cause, a copy of which is waived
1888 by the State of Louisiana, being already in the record as a part of the evidence introduced by that State and marked Mississippi Document No. 70.

Counsel for Mississippi now offer and introduce in evidence Mississippi Document No. 71, being "Railroad commissioners' map of Mississippi published by Rand, McNally & Co. in 1903," and counsel have hands to the counsel for Louisiana a copy of the said map.

By Gen. GUION: In addition to the agreement already entered into between counsel for the State of Louisiana and counsel for the State of Mississippi at Bay St. Louis, on or about the 10th, of August 1904, in connection with a certain map offered by the State of Mississippi, and marked Exhibit B. It is further hereby agreed, understood and admitted by counsel for the State of Mississippi that A. L. Baldwin is the computer of the Coast and Geodetic Survey of the Department of Commerce and Labor in Washington, D. C., and that on the 8th, day of June 1904, at the time he signed the certificate attached to the map marked Exhibit B., he was not acting in making such certificate by authority or under the directions from the head of the Department of Commerce and Labor of the Coast and Geodetic Survey, notwithstanding it is agreed that said map may be offered in evidence for whatever it may be considered worth by the court and may be used for the purposes of demonstration.

It is admitted by the State of Mississippi that Goodspeed's Biographical and Historical Memoirs of Mississippi show that Gov-

ernor Humphries was inaugurated in October 1865, and held
1889 office until the fall of 1868, when he was displaced under orders from Generals McDowell and Ames, the latter of whom was appointed military governor.

The commission here adjourned to meet at New Orleans on Thursday, August 26th, 1904, at 11 a. m. in the office of the clerk of the United States district court in the custom house, before Frank H. Mortimer, commissioner.

1890 NEW ORLEANS, LOUISIANA, August 27th, 1904.

The commission met this morning in the office of the clerk of the district court of the United States, in the custom house in New Orleans at 11 o'clock a. m.

There were present: Hon. Frank H. Mortimer, commissioner on the part of the State of Louisiana. Hon. Frank C. Zacharie, and Hon. John Dymond Jr., associate counsel on the part of the State of Louisiana. Hon. William Williams, attorney general for the State of Mississippi, and Hon. Monroe McClurg, counsel on behalf of the State of Mississippi.

NEW ORLEANS, August 27th, 1904.

By agreement of the two States made by their respective counsel in the presence of the commissioner, Hon. Frank H. Mortimer, commissioner on the part of the State of Louisiana, the following testimony was taken here today as a part of the testimony in chief of Mississippi. That said commissioner for the State of Louisiana is to preside, and to certify to the record when prepared by the official stenographer for the State of Mississippi, said record to be incorporated in Mississippi's testimony. All objections as to the time, place and manner of taking this testimony on the part
1891 of Mississippi is hereby mutually waived.

Counsel for Mississippi in support of her contention on the questions of the exercise of sovereignty and jurisdiction by that State over the territory in dispute, submits the following documents, now handed the commissioner to be filed by him, a true copy of each of which is now handed to the counsel for the State of Louisiana.

Mississippi Document No. 72, being an ordinance passed by the board of supervisors of Hancock county, Mississippi at the January term 1898, with reference to the regulation of dredging of oysters on the public reefs in Hancock county, and to enforce the same.

Mississippi Document No. 73, is here introduced in evidence by the counsel for the State of Mississippi, being and ordinance passed by the board of supervisors of Hancock county at the September term 1898, being an ordinance for the protection and preservation of the public oyster reefs in Hancock county, Mississippi and to enforce the same.

Counsel for Mississippi introduce in evidence Mississippi Docu-

ment No. 74, being an ordinance passed by the board of supervisors of Hancock county at the June term 1900, with reference to the catching of oysters on the public oyster reefs of the said county by means of steam vessels or any other appliances or device propelled, managed, operated or utilized by steam.

Counsel for Mississippi introduce in evidence Mississippi Document No. 75, being a certified copy of the auditor of public accounts of the State of Mississippi, showing amounts paid into the
1892 treasury of the said State on account of the oyster fund from October 1st, 1902, to September 30th, 1903, inclusive, and from October 1st, 1903, to August 24th, 1904.

Each of the foregoing documents are now introduced and offered in evidence on the part of the State of Mississippi for the purposes above stated.

By Mr. DYMOND: Counsel for the State of Louisiana now excepts to the introduction of the said documents, as they in no way show or determine or fix the boundaries of Hancock county, Mississippi, and are therefore irrelevant.

By Gen. MCCLURG: Counsel on the part of the State of Mississippi, now offers and introduces in evidence an official statement made by the secretary of the Board of Oyster Commissioners of Mississippi on May 25th, 1904, to I. Heidenheim, chairman of the committee on testimony, showing a statement of the amount collected for licenses, since the creation or the board of oyster commissioners, marked Mississippi Document No. 76.

And counsel for Mississippi also offers a similar official document of the secretary of the Board of Oyster Commissioners of Mississippi to said Heidenheim on the same date showing statements of the two cents per barrel tax, since the creation of the board of oyster commissioners of said State. Marked Mississippi Document No. 77. The original is now filed with the commissioner, and a copy of which will be handed to the counsel for the State of Louisiana.

Counsel on the part of the State of Mississippi now introduces and offers in evidence a certified copy of a report made on October 2nd,
1901, by what is known as the Mississippi Boundary Com-
1893 mission to the governor of the State of Mississippi, which is marked Mississippi Document No. 78, and is now filed with the commissioner, and a copy handed to the counsel for the State of Louisiana.

And counsel for the State of Mississippi also introduces in evidence as Mississippi Document No. 79, a report made by W. A. White, and J. I. Ford on October 1st, 1901, to the governor of the State of Mississippi, with reference to the action of the so called boundary commission on the part of the State of Mississippi. The original of which is now handed to the commissioner to be filed, and a copy handed to the counsel for the State of Louisiana.

And counsel for the State of Mississippi also introduce in evidence as Mississippi Document No. 80, a certified copy of the recommendation of the governor of Mississippi, to the legislature of the said State,

at its session of 1902, entitled Mississippi Boundary Commission. The original is now handed to the commissioner to be filed and a true copy handed to the counsel for the State of Louisiana.

1894 Hon. V. A. GRIFFITH, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. McCLURG:

Q. Mr. Griffith, I believe you are the junior member of the firm of Dodds & Griffith?

A. Yes sir.

Q. And you are the Griffith who was originally of the counsel of the State of Mississippi in this case of Louisiana *vs.* The State of Mississippi, respecting the boundary in the water of the Gulf, between the two States?

A. Yes sir.

Q. And as such counsel is it true that you undertook to have a map made showing the respective contentions of the two States on this subject?

A. Yes sir.

Q. I will show you a map marked Exhibit A. To the testimony of W. M. K. Ducate, on cross examination April 8th, 1904, filed by Frank H. Mortimer, commissioner, and ask you to look at this map and see whether it is the same as Exhibit A. to the original answer and cross bill filed on the part of the State of Mississippi by your law firm and other counsel for the State?

A. I have no positive knowledge as to how it was marked as an exhibit, though my best recollection is it is called Exhibit A. When we met at Jackson to draft the answer and cross bill, it was agreed between the then counsel for the State of Mississippi that in answer to the documents made by the State of Louisiana showing her contention that it would be necessary for the State of Mississippi to have a map made and file it as an exhibit to her cross bill, setting up her counter contention. It was impossible to use the Fish Hawk map which had been used by the State of Louisiana, because the Fish Hawk map did not extend far enough in among the islands.

1895 Some of the islands that we desired to show on the map for Mississippi were not shown on the Fish Hawk map. So our ...m was instructed by the attorney general of the State of Mississippi to have a map made, and it was agreed that in accordance ...th the averments on page 15 of the answer and cross bill that the ...p should be as near as possible a reproduction of the coast ...rts No. 19, 190, 191, and 192, as prepared by the United States ...st and Geodetic Survey, thus showing all of the islands and all ...he territory in dispute as it was viewed by the then counsel for ... State of Mississippi

The documents filed by Louisiana were mere zinc etchings, and it ... considered by the attorney general and by the counsel for Mis-

sissippi that a plain zinc etching for Mississippi would be sufficient, it not being desired to go to the expense of having a map made that would be absolutely, theoretically and technically correct, but to show the contention of the State of Mississippi only in sufficient detail. We thereupon as soon as possible made inquiries as to who could do this work, and finally decided to employ the Photo-Engraving Company of the City of New Orleans to make a map, and to print some from what is called I believe zinc etchings, and we instructed them to make a map on the same steel and the same size as the Coast and Geodetic Survey maps above mentioned. My partner Mr. Dodds, and I went to the office of the Photo-Engraving Company, and consulted with them fully, and gave them a list of the maps that we desired them to consult; furnished them with a copy of the Fish Hawk map, and explained to them how we wanted the Fish Hawk map extended to the southwest so as to cover all islands that would be within the limits of the State of Mississippi as viewed by the counsel on the part of the State of Mississippi. A gentleman in the office was called and
1896 we talked to him, and he was pointed out to us by the Photo-Engraving Co. as the man who would draw the map. He was a German. I don't remember his name, but was said to be a competent man in that line. He drew the map on stiff paper and notified us he had it ready for examination, and we called at the office of the Photo-Engraving Company and compared the map with the maps mentioned, and with the Fish Hawk map, and heard his statement that he had also consulted the maps in the United States land office at New Orleans, and so far as we could possibly tell by comparing the maps with the Coast and Geodetic Survey maps it seemed to be perfectly correct. We had only a few minor changes made such as having him to embody the township and range marks to the eastern portion of the islands before the map was accepted practically as made by him, and when same was received in its printed edition, I myself undertook to mark out the Mississippi line in red ink, as stated on pages 14 and 15 of the cross bill of the State of Mississippi. In marking this I began due south of the main land of the State of Mississippi, and south of a point which would be in Harrison county in the State of Mississippi. I measured a line six leagues, or 18 geographical miles from the mainland of Mississippi until such line struck what we term or contended the main land of the State of Louisiana, some distance west of Lake of the Mound; thence drew the line northward along what we contended to be the main land of Louisiana through Nine Mile bayou, and westward, still on the main land of Louisiana, to a point due south of the mouth of Pearl river, and from thence due north entering the middle of the mouth of Pearl river at its eastern junction with Lake Borgne. That line marked in black ink on Exhibit A. was our nearest guess to the contention of Louisiana. This line was drawn on the deep water channel running out of

Pearl river, as shown by the Coast and Geodetic Sur-
897 vey maps above mentioned, and where there were no soundings to show we measured from bayou to bayou along he bayous that are situated in this vicinity. The line due south f the main land of Mississippi and measuring what is commonly alled 18 miles is not measured upon statute miles but upon nauti- al miles, which make 21 and a fraction statute miles. After full vestigation we settled in conclusion that the act of Congress meant autical miles and not statute miles. That is our firm Dodds and riffith. This completed we forwarded the maps to the attorney eneral of the State of Mississippi to be filed as exhibits.

Q. Do you recognize this Exhibit A. to the deposition of Mr. Du- te, mentioned in my question, as the map which your firm had ade?

A. I do, and the lines as being drawn by me.

Counsel for Mississippi now offers and introduces the said map ove referred to as evidence in this case.

Q. Exhibit A. to the answer and cross bill of the State of Missis- pi purports to be precisely the same as the map on which you are w looking. Exhibit A. to Mr. Ducate's testimony above men- ned. I desire to ask you whether or not you have seen and ex- ined Exhibit A. filed with the answer and cross bill to which ur firm name is signed, and whether it is precisely the same as map now before you?

. My best recollection is that I marked twenty five of the maps he outside with the style of the case and Exhibit A. to the an- r and cross bill of the State of Mississippi. My best recollection at the attorney general instructed us that it would be necessary le twenty five maps, or exhibits, with the answer and cross bill, though I am not positive as to the number.

Q. To file them where?

A. In Washington.

With the clerk of the Supreme Court at Washington?

Yes sir. Each and every one of these maps were identical very respect, and the drawings were made by me successively.

What drawings?

The lines. The lines representing the contention of the State ississippi in red ink, and the black lines representing our best ate of what was the exact contention of the State of Louisiana. is marked in black ink.

By Gen. WILLIAMS:

Were these maps and those forwarded to the attorney general State of Mississippi to be filed as an exhibit to the answer and bill, the same, identically the same as Exhibit A., that has been s an exhibit to Mr. Ducate's testimony in this case?

They are identically in every respect without a deviation in anner. I will explain that the way these maps were made.

The first line was drawn and the disputed territory was cut out with a very sharp instrument, and made a pattern which was laid down on all subsequent maps, and a line drawn along the edge of this pattern so that there would be no deviation.

Q. What do you mean by all subsequent maps Mr. Griffith?

A. I had to mark out 60 of these maps, and I mean by all subsequent maps, the 49 following the first one that I made. They were all made at one time and in one day.

Q. You marked out as I understand it twenty five maps or more which were forwarded to the attorney general of the State of Mississippi to be filed together with the answer and cross bill on the part of the State of Mississippi.

1899 A. Yes sir.

Q. And then in addition to that twenty five or twenty six, or whatever number it was. You sent other maps, and subsequently—when you say *say* subsequent maps you mean those that you prepared for that purpose?

A. Yes sir, I sent twenty five maps to be forwarded to the clerk of the United States court at Washington, and I sent twenty five maps to be used by the attorney general for the records of his office and in this case.

Q. Well now who did you send those maps to Mr. Griffith. To whom did you send those maps?

A. I am not positive about the exact address, but my recollection is they were sent to the Hon. William Williams, attorney general of the State of Mississippi at Jackson Mississippi.

Q. Twenty five of which?

A. That marked as exhibits and intended to be filed with the clerk of the Supreme Court at Washington.

Q. As a matter of fact did not you mark on the back of more than twenty five of these maps, exhibits to the answer and cross bill?

A. It might have been just possible. I know that twenty five of them were so marked.

By Gen. McCLURG:

Q. Mr. Griffith, I believe that you have no personal or financial interest in this controversy now?

A. Nothing except as a citizen of Mississippi. No more than any other citizen of Mississippi would.

Q. But you have as you have stated above, given this matter considerable attention?

A. I did up to that time, but it has since passed out of my mind some what, and I am not as familiar with it as I had been.

1900 Q. In other words since the legislature of Mississippi declined to provide for attorneys' fees in the matter you quit the case and have given it no thought since?

A. No sir, I have not given it any more thought.

Q. Now I want to ask you. You reside at Biloxi I believe?

A. Yes sir.

Q. How long have you lived there?

A. Well nearly five years.

Q. And Biloxi is in the county of Harrison?

A. Yes sir.

Q. If you have any personal knowledge or any reliable information of any serious conflict or of any conflict that amounted to a crisis, between the sheriff and other officers of the parish of St. Bernard, Louisiana, and the sheriff and other officers of the county of Harrison I would be glad to have you tell this commission what you may know of it.

A. I have no personal knowledge concerning those matters. Any thing that I would testify to in response to that question would be hearsay.

Q. Have you any hearsay knowledge even of any thing that amounted to an armed conflict between the officers that I have mentioned. Of any serious conflict between officers of the parish and county I have named or between the two States prior to the filing of this case on the 27th of October, 1902?

A. Do you want pure hearsay?

Q. Any reliable information that you may have as to the matters.

A. It would be very difficult to say you have not heard something of almost any thing concerning this dispute. The expressions have been differing and the only action I ever heard of any prospects or propositions concerning an armed conflict was the time when Governor Longino had come to Biloxi, and it was suggested by some of the gentlemen there that they would take the matter into their own hands in some manner or form, which he very promptly sat
1901 down on, as well as the good counsel of other law abiding citizens.

Q. That was subsequent to the filing of the bill in this case?

A. I don't remember whether that was subsequent to the filing of the bill or not. I really don't believe it was a serious suggestion on the part of the gentleman who advocated it. Otherwise than that I have never heard any thing from that part of the country that would suggest that there was any armed conflict, or any danger of a collision out there.

Q. The question had reference purely to the time preceding the 27th, of March 1902?

A. Preceding the time of filing this bill I had never heard this matter discussed very lengthily in any way. Certainly I had never heard of any conflict out there. Armed conflict, and had heard very little about it in other respects, except that there was a dispute and a commission had been appointed to try and arrive at an amicable settlement of the matter.

Cross-examination.

By Mr. Dymond:

Q. Mr. Griffith, I understand that you are the Mr. Griffith
was counsel at one time for the State of Mississippi in this case?
A. Yes sir.

Q. And that necessarily you had ideas as to the defense that
sissippi should put up to the suit that had been instituted by
State of Louisiana to determine the boundaries?

A. Yes sir.

1902 Q. Now will you please look at this map Mississippi
concerning which you have just been testifying, and rea
ing to your mind your remark about the islands, and that you
sired to have this map show the territory sufficiently south to
clude all of the islands, you referred did you not, to your conclu
that this body of land surrounded by water in the Louisia
marshes, or what Louisiana claims to be Louisiana marshes, a
islands?

A. Yes sir.

Q. You don't know whether they are swamp hummocks or not d
you?

A. I will state in reply to that question that in September 1902,
my partner and I went out into these marshes here to examine for
ourselves the nature of that land, so as to see if we could form a
definite conclusion as to what would properly be termed islands
It is true we did not go all over the territory, but we went in Three
Mile bayou, and from our observation of the territory there we con-
cluded that we were safe in determining this territory islands so far
as we saw it all.

Q. Was not that on the theory Mr. Griffith that it was a body of
land entirely surrounded by water?

A. Well of course that was the primary conclusion. An island is
commonly defined as a body of land entirely surrounded by water.

Q. Is it not a fact that it is a low marsh country just about on a
tide level?

A. It is a fact that except at the very edge where the water first
strikes it is low and marshy, and at high tide is to a large extent
covered with water. We found difficulty in walking on it except at
the edge of the water, where the sand had been thrown up against
the sea weed.

Q. When you speak of the edge do you speak of the shore line
from Malheureux point to Isle à Pitre?

A. I mean where the water strikes the sea grass in any of these
islands.

1903 Q. All through the marsh?

A. Yes sir.

Q. Did you ever make a trip at Petit pass, from Malheureux
point to Isle à Pitre?

A. Our trip was from Biloxi to St. Joseph island, and Half Moon

island, and in at Three Mile bayou, and out from there along westward — La Petit Pass island and from there to Pearl river. I have been at Isle à Pitre, but not on this trip or expedition, and consequently did not take as much note of it, but to answer your question I have never been from Isle à Pitre along west to Malheureux point.

Q. You therefore never had the opportunity of knowing the character of the shore line extending between those two points?

A. Not all of it, no sir.

Q. What part of it have you traversed?

A. As I stated, from Three Mile bayou, to the neighborhood of La Petit Pass island.

Q. Along the coast?

A. As the schooner would sail. As near to land as we could sail.

Q. In sight of land?

A. Yes sir.

Q. Did you notice the land continuously as you sailed along?

A. I would say yes, continuously, but I do not mean by that that we did not take our eyes off of the land.

Q. Was not there a well defined coast line between these points?

A. There is a break at Nine Mile bayou.

Q. That is a bayou entering into the marsh?

A. Yes sir.

Q. As shown on this map Exhibit A?

A. Yes sir.

Q. Did you ever endeavor to walk on the shore line from Petit pass to Isle à Pitre?

A. No sir.

1901 Q. Now when you came to the confection of this map, what was it caused you to start out at the mouth of Pearl river, a line west of Malheureux point and back to the eastward and come down Nine Mile bayou?

A. You will find by consulting the answer and cross bill on pages 14 and 15, that this gives a description of the line. I was merely following that description of the line, but however I will say that we did not begin at Pearl river, but we began to the eastward of the map.

Q. How did you happen to determine the main land of Louisiana as set forth with the red line on this map Mississippi A?

A. By an inspection of the map. By looking on the map, to see where the main land was shown there.

Q. Were you influenced by any other information you had on this subject?

A. Any detailed information?

Q. Did you have any other information on the subject at all?

A. I will say that the crew of the schooner who are old and experienced fishermen in that part of the country were plied with a great many questions by us in making our investigations, and there

statements were taken into consideration as well as what was shown on the map.

Q. Now will you please notice this map called sketch No. 2 attached to Document No. 11 of Louisiana and notice whether or not there is any thing on the map suggestive of what is supposed to be the main land of Louisiana in this locality?

A. As to what that map suggests, the mainland would seem to be clearly conceded to be south of Marsh island, but there are other drawings that would seem to indicate that the draughtsman had in mind the main land might be held to extend out towards Cat island.

Q. I don't think you have exactly understood my question Mr. Griffith. Is there any thing on this sketch No. 2 before you to indicate any measurement from the main land?

1905 A. Well I would say this nine nautical miles from main land being a line drawn north and south, not straight, but curved, would indicate it has been drawn from the line I have just spoken of south of Marsh island, as being drawn from main land.

Q. Do you notice any similarity between that line and the line which you have designated as the main land on your map Mississippi A, in a general way?

A. In a general way it is the same direction, but it extends to the eastward, nine nautical miles of an actual line drawn in red on Exhibit Map A. of Mississippi.

Q. I refer to your red ink line on Mississippi Exhibit A. Does it in a general way conform with the outline of the main land as shown on this sketch No. 2?

A. It does.

Q. Did you have before you this sketch No. 2, or a similar sketch at the time you draughted or confected your map Mississippi A.?

A. I did not.

Q. Did you have any knowledge of the existence of this sketch No. 2, or document map No. 11 at the time you made that map Mississippi A.?

A. I never have seen it until today.

Q. Was I correct in understanding you Mr. Griffith to say that you marked a number of maps as Exhibit A. to be attached to the answer and cross bill filed by the State of Mississippi?

A. As I stated before my best recollection is that twenty-five of the maps were forwarded to the attorney general and marked, and as I stated in my direct examination that — the style of the case, and below that the statement Exhibit A. It may be just possible however that instead of marking the map that way, I marked it in lead pencil Sup. Ct. with the idea that the attorney general himself would put the proper marks on the outside. It has been

1906 some time and the matter has gotten out of my mind entirely. I have not attempted to remember. I am not just positive as to which way that was done.

I will say that the same maps that I marked and sent to the at-

torney general. I saw in his office a few days afterwards, when I was there on business, and it may be that instead of marking the maps on the outside as exhibits, the only time I did mark them as exhibits was on the inside when I instructed the printer to print it that way, and it will be found that way. My best recollection now after refreshing my memory is I marked in lead pencil U. S. Supreme Court.

Q. You will notice on page 15 of your answer and cross bill the following language "And your orator will file in due time proper copies thereof now being made as Documents No. 1, 2, 3, and 4, and made parts hereof." Is not that the only reference to that document or map, Mississippi A, concerning which you have testified as made in that answer and cross bill?

A. It is as I remember it. At the time we wrote this cross bill it had not been definitely determined whether we would make only one map or have the four, or whether we would have four, the map being a composite of all the four, or have the four 1, 2, 3, 4, corresponding and 19, 190, 192, and 191. We could not use this Coast and Geodetic Survey maps as exhibits because they were too large and stiff.

Q. As to the accuracy of this map you are not prepared to testify to that in any way. You never have taken a compass and scaled it off to see whether it was correct?

A. Upon the accuracy of that map I will state as I did before we applied to these people who were recommended to us as experts in the work. We had notice furthermore that the maps filed by Louisiana were rough, and not intended to set out absolutely correctly the then contention, with the exception of the Fish Hawk map, and our conclusion was that a map that sufficiently outlined our contention would be required in this exhibit, with out further testimony to be absolutely technically correct, and ould be introduced on the hearing. So that map when I came to xhibit it was compared with the Coast and Geodetic Survey maps st are mentioned here, and we had them to change the names of e or two of those bays, and so far as we could tell by the closest ritiny it was a true and faithful copy of the Government maps specting that territory.

Q. I understood you to say from the data you had prepared by s expert, that it showed that this territory had been surveyed and e township and range and section lines were projected on this data had?

A. Yes sir.

Q. And you had that data eliminated from your map north and t of your red ink lines?

A. Yes sir.

Q. Those township and range lines showed that the lands had been veyed as a part of Louisiana did it not?

A. We did not take the time and trouble to investigate by whom survey had been made. We assumed that it had been made by

Louisiana, but granting the assumption it was a part of our contention that the State of Louisiana had no right to survey it, and therefore it should be eliminated on this map as surplusage, and also had the names of some of the islands eliminated so as to prevent this map from being too full of details and names that would detract from taking a proper view of it.

Q. Your idea was to prepare a special map for this particular case rather than to prepare a map truly representing every thing collected from the sources which you state?

A. Our purpose was simply to have a map that would indicate to the court exactly what our contention was. We wanted a map that would be correct so far as the topography was concerned, and wanted the outlines of the islands to be carefully and correctly shown
1908 so far as possible with a zinc etching. It was not our purpose to go to the expense of having a photograph made. We wanted the scale of miles to be correct, and we wanted the names of the islands and waters that we put in there to be correct and as I stated before I had some of the names changed for that reason, as we did not desire to have a map too much written over with names, and data that could not be of any assistance in this controversy, but that would confuse the court and others in looking over the map.

Q. But you were particularly careful to see that any evidence of the ownership of Louisiana, of that territory shown by the map should be removed, from any part of the map that you were preparing?

A. I don't recollect that there was any evidence of ownership appearing on the map, unless you consider the mark of the township and range on there as being an evidence of ownership. That is the only thing that we had eliminated that could show any thing of that kind and you will notice that on the main land, or that part we concede to be the main land the township and range are still left.

Q. Well Mr. Griffith, you were interrogated a few minutes ago with reference to a dispute or conflict between the two States. Is it not a fact that you know that there have been negotiations pending between the two States in regard to this boundary since January 1901?

A. I know that there have been negotiations certainly.

Q. Now did you ever hear of previous efforts on the part of the State of Louisiana and more particularly the sheriff and officers of the parish of St. Bernard Louisiana, being as far back as 1898 to expel non residents from this particular territory?

A. All of these matters I have heard of since this bill was filed. Previous to that time if I heard any thing about it it made absolutely no impression on me and I don't recollect it.

1909 By Col. ZACHARIE:

Q. Mr. Griffith are you a surveyor or civil engineer?

A. I will say that in my course of mathematics in the University

of Mississippi it was a part of the prescribed course that I should take surveying. As such I did field work there.

Q. You did field work simply at college?

A. Yes sir, that is all.

Q. Are you a cartographer?

A. No sir, I claim no technical knowledge about that map at all. All we did in accepting this map was it seemed so far as we could observe by the naked eye it was a correct transcript of the Coast and Geodetic Survey map. We were not making maps. We were attempting to practice law.

Q. Then you did not make use of the compass, theo*g*olites or any other surveying instruments to determine the correctness or anything on this map?

A. The only thing we did I have just stated. We compared it with the Coast and Geodetic Survey maps that we referred to and it seemed to be correct by them.

Q. And you put upon this map only such data as you thought would illustrate the claims of the two States?

A. The claims of the two States yes sir.

Q. This you did under instructions. Did you not carry out all data which is embraced in the second and third articles of the cross bill of Mississippi printed on up 14 and 15?

A. The third paragraph 14 and 15.

Q. Did you not also take into consideration the whole portion of paragraph of article 2, of the cross bill on page 14?

A. Yes sir.

Q. Then as I understand you Mr. Griffith this map was not prepared as an original map for the purpose of correctly showing
1910 the territory, but was sim-ly a *pro-forma* map gotten up under instructions to show the respective claims of Louisiana and Mississippi in this litigation?

A. Yes sir, we took it for granted that counsel for Louisiana would never insist that the maps zinc etchings filed by them, with the exception of the Fish Hawk map was any thing approaching a correct map. It was a very rough draught made by some print shop in this city, and we thought that we were going a distinct step further when we had as correct a map as that prepared as an exhibit.

Q. In other words you considered the maps that had been filed with Louisiana's bill of complaint as being simply *proforma* maps?

A. Yes sir.

Q. And you proposed on the part of Mississippi only to show the contest between the two States, and prepared this map and submitted it as illustrative of the claims of the two States?

A. Yes sir, we prepared a better map than the one used by Louisiana.

Q. Did you or did you not know that Louisiana had filed as Exhibit E with her bill of complaint an actual facsimile, or copy of the geodetic maps of the United States Coast and Geodetic Survey. Did you or did you not know that?

A. If it was a fact I knew it. I don't recollect now what m knowledge was about that.

Q. Then I don't understand you to say in so far as an origin map to establishh by proof any thing; that this map was ever pr pared for any such purpose?

A. You are correct in that. That map is a copy of the Coast a Geodetic Survey map just as the copy that you have spoken of having been filed with your bill.

Q. But you stated a moment ago that you did not make a copy the Coast and Geodetic Survey maps, because you left out certa details in regard to the townships and ranges and so on. So that is not a copy of these maps?

A. My recollection is, and I think the Coast and Geodet
1911 Survey maps mentioned in our answer will show it, th townships and ranges are not shown on the Coast and Ge detic Survey maps. I don't recollect to have seen it. This mea was taken to make these maps. He procured as he stated to us, procured these townships and ranges from the land office here New Orleans.

Q. Then I understand you to say that this map was not prepar by you that it should be proof of anything further than to show t claims of the two States?

A. To show the claims of the two States, and as one being corre without having a- original map made by measurements.

Q. So that the court might understand the merits of the contr versy?

A. Yes sir, but after having the map made, we were much i pressed both from our observation of the territory itself, and fro our examination of maps that the map was practically correct detail.

Q. Do you know where the idea of including this territory in r lines on this map came from?

A. Our idea is that it came from the Congress in 1817.

Q. Do you know who first suggested this delineation or how it w suggested?

A. Why the act of Congress in 1817 suggests that delineation.

Q. Was that the only way in which the suggestion was made?

A. Why I could not state as to that.

Q. Had you seen the report and accompanying documents of M Hodgkins of the Coast and Geodetic Survey when you prepared th map?

A. I had not. I had not heard of it. And my first informati concerning this matter was when I read it in the daily papers New Orleans at the time Louisiana was taking her testimony chief. That is as to the report. As to the map, I have seen it he this morning for the first time.

1912 Q. You may have stated it in your testimony and it caped me. Under whose instructions did you prepare th map, and everything generally?

A. As I stated in my direct examination, the attorney general for Mississippi requested us to have a map made as an exhibit to the cross bill of Mississippi so as to show the contention of Mississippi, and that matter was left to the judgement of the firm of Dodds and Griffith, and we had that map made.

Q. And did his instructions embrace that you were to follow what was laid down in the second and third articles of Mississippi's cross bill?

A. No specific instructions were given us on that point. That was work that we did from our own best judgement.

Q. Did you follow the instructions; the second and third articles in the cross bill, in preparing this map?

A. We followed the articles both in the cross bill and articles inclusive.

Redirect examination.

By Gen. McCLURG:

Q. Were there any specific instructions given you at all. Was it not rather a request. You took the matter of map making in hand and did it as you thought best?

A. My recollection is that after the answer and cross bill were prepared at Jackson, Mississippi, that it was agreed that we would have a map made, and following that agreement we received a letter from the attorney general of the State of Mississippi requesting us to have a map made and authorizing us to use our best judgement in the matter, and without suggestion stated that he and associate counsel would abide by whatever we had done about it, so that the attorney general and associate counsel Mr. McClurg had nothing to do with the construction of that map.

1913 By Gen. WILLIAMS:

Q. The only instructions you had Mr. Griffith were to go ahead and prepare a map, and let the man who made it draw on the attorney general for the amount?

A. That is correct.

By Gen. McCLURG

Q. It may be somewhat in repetition, but as we understand this map Exhibit A to Mississippi's answer and cross bill, and Exhibit A to Mr. Ducates' cross-examination on the part of Mississippi in that case, it was intended to give a succinct idea of the claims of the States as to the territory in dispute?

A. Yes sir.

Q. And the scale that is on this map corresponds with the scale on the map from which it was made?

A. Yes sir.

Q. And that map was an official map of the Coast and Geodetic Survey of the United States.

A. It was. That scale being one in correspondence with a scale of statute miles. So in drawing that line 18 nautical miles, we had to refer to fraction and make it a scale corresponding to the geographical miles. That is statute miles and it should have been geographical miles.

Q. And this red line that is drawn across this map that is filed with the clerk of the Supreme Court of the United States at Washington is Exhibit A to the original bill indicates that it is 18 geographical miles from the shore of Mississippi due south?

A. Yes sir, about 21 and a fraction statute miles.

By Mr. DYMOND: Objected to by counsel for Louisiana on the ground that the question is leading and suggestive.

1914 Q. You were asked on cross examination Mr. Griffith—?

A. I want to state this. I was asked awhile ago if that map was made on actual measurements. After that map was made this engineer who made it subsequently came to us as a private arrangement and stated that he was going on a cruise out there on these islands, and he thought we ought to pay him so much——

By Mr. DYMOND: Objected to on the part of the State of Louisiana on the ground that it is hearsay evidence, and the engineer is the only competent witness to testify to it, and that counsel for the State of Louisiana is entitled to the opportunity to know the witness's name, and having him summoned in order that he may be cross examined.

A. If we would pay him so much he would make actual measurements of all the outlines on the map, and mark out by miles the distance from point to point.

By Mr. DYMOND: It is understood that the same objection on the part of the State of Louisiana is made to this statement and all similar questions and answers propounded by the counsel for the State of Mississippi.

A. And that he would mark the map in blue and otherwise complete and execute the map in detail, and we paid him a certain sum to do this work, and we now have and had six months ago a copy of this map in our office.

By Col. ZACHARIE: The State of Louisiana by her counsel objects to all of the testimony of this witness in regard to the preparation of this map, except so far as his communicating to the engineer instructions as to how to prepare the map. That as to the preparation of the map, the only evidence admissible as to its preparation would be the person who prepared the map, and the testimony is
1915 therefore excepted to, and the fact as to the preparation of the map by a third party has only been developed on the cross examination of the counsel for the State of Louisiana.

By Gen. McCLURG:

Q. Mr. Griffith, counsel for Mississippi has called your attention to map No. 7, introduced in evidence in this case on the part of the State of Louisiana, and especially with reference to the marking on said map the red and blue lines; asking you to note the outside or northeastern circular blue line marked Nine nautical miles from Isle à Pitre, and the broken circular line marked Nine statute miles, and the next line Nine nautical miles from Grand pass, and the broken line near the Nine statute miles, and third, Nine nautical miles from the body of the marshes, and Nine statute miles. Your attention is called to that to examine you with reference to the question asked you by counsel for Louisiana as to the main land of the State of Louisiana. Now please state whether the red line marked by you on Exhibit A, to the answer and cross bill, and Exhibit A, to the cross-examination *to* Mr. Ducate, indicating the main land on said exhibit is the same as indicated on this map No. 7, as being the nine nautical miles from the body of the marsh land?

A. It is the same except in one particular in which the detail of this map differs from the map on which the line is marked. At a point about two leagues north of the most southern point on the red line, this map is drafted on such a small scale that the details of some of the outlines are lost.

Q. The exact point to which I desire to call your attention
1916 is whether there is any substantial difference between what Mississippi calls the main land, of Louisiana in her cross bill and answer in her map Exhibit A, and what Louisiana on this map now before you denominates the main body of the marshes?

A. There is no substantial difference. But this nine nautical miles from the present main body of marsh land, and nine statute miles from the same are measured from the same thing that our line going north runs along with.

Q. And I understand you to say that our line; that is the line called in our cross bill and answer as the high tide mark, or the main land of Louisiana as indicated on this map introduced by Louisiana is the main body of the present marshes?

A. Yes sir.

Q. So then there is no difference between us on the proposition as you understand it. There is no material difference?

A. No material difference.

Q. I wish you would please tell me what you understand by these measurements indicated on this map by the circular blue line. This map No. 7, introduced by Louisiana?

A. I understand that the first line to the right marked Nine statute miles, and the second marked Nine nautical miles present main body of marsh islands to be a calculation as to where the Louisiana line would run, conceding the marsh territory to be islands, and therefore this main land would run from Nine Mile bayou south as indicated in our answer and cross bill, and the next nine statute miles

and nine nautical miles from Grand pass would be what Louisiana would contend to be, the State line in case it should be held that the main land extends as far as Grand pass. The nine statute
1917 miles and the nine nautical miles from Isle à Pitre running out to Ship island would be what Louisiana would claim as the line in case that Isle à Pitre should be held a part of Louisiana main land.

Q. What do you understand by the 18 statute miles and the 18 nautical miles marked there running east and west?

A. I understand that the 18 statute miles is measured south from the main land of Mississippi, and would be the extreme of Mississippi's contention in that direction in case the court should hold that Congress meant statute miles, and 18 nautical miles would be the extreme southern line of Mississippi's contention in case the court should hold that the intention of Congress was to speak of nautical miles.

Recross-examination.

By Mr. DYMOND:

Q. Mr. Griffith will you please look at map No. 7, concerning which you have just been testifying, and state whether you do not recognize the blue and red lines thereon to be the exact lines projected by Mr. W. D. Hodgkins of the United States Coast and Geodetic Survey as shown on Document 11, and sketches 1, 2, and 3, attached thereto?

A. I have testified to the reports of Mr. Hodgkins that I have never seen the maps until today.

Q. You will please look at it now and state, after examining the notes that appear on the map, and on the sketches which are pointed out to you, and state whether or not you do not recognize the lines on maps 7, to be the identical lines as shown on sketches 1
1918 and 2, Document No. 11 prepared by Mr. Hodgkins?

A. So far as the eye could detect by a casual examination I would say that they do.

Q. I will state for your information Mr. Griffith that we have had a witness on the stand who testified that he made these lines and made them from the Hodgkins survey actually. Now you have testified as to what was the intention of Louisiana to be shown by these various lines that appear on map second, and you have stated that such conclusion would result if Isle à Pitre was held to be a part of the main land of Louisiana. Will you please state where you got your authority for any idea that the main land figures in this matter in any manner whatsoever.

A. I will state that any statement I will make concerning this will be opinion. Just my opinion after studying the case.

Q. Are you not familiar with the act of Congress creating the State of Louisiana?

A. Very familiar.

Q. Do you not know in place of using the word main land it uses the word coast?

A. Yes sir, coast in Louisiana and shore in Mississippi.

Q. Have you ever examined the authorities to ascertain what the word coast means?

A. I have.

Q. Have you found any reference to any main land in the legal definition of the word coast?

A. Yes sir, I have a brief that states all of the authorities.

Q. Can you find any of them now?

A. You will find an authority in the text book called Careless on Sewers that goes so far as to hold that the coast is always a part of the dry land.

1919 Q. That is your authority?

A. No sir, not the only authority.

Q. Do you know of any other authority?

A. A decision by Judge Field while he was on the bench in California is another.

Q. What case?

A. I don't remember the cases. I have it in a brief.

Q. A brief prepared in this case?

A. Yes sir.

Q. Your brief has never been filed has it?

A. No sir, we have not gotten to the filing point yet. I suppose we will some day.

The commission met at 2 o'clock pursuant to the recess for the noon hour, and there were present the same as this morning.

Governor JAMES K. VARDEMAN, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows, to-wit:—

By Gen. MCCLURG:

Q. Governor Vardeman, in order that you may get at least a chronological idea of this suit by the State of Louisiana against the State of Mississippi; about January 1901 there was some thing in the nature of a mass meeting held in the city of New Orleans looking to the location of the boundary between the State of Louisiana and the State of Mississippi in the waters of the Gulf.

At that meeting as stated in the bill of complaint and generally stated to you now, a boundary commission on the part of Louisiana composed of five gentlemen was appointed, and resolutions were adopted requesting the governor of Louisiana to ask the gov-

1920 ernor of Mississippi (at that time Governor A. H. Longino), to appoint five gentlemen from that State to determine an easy location and marking of the boundary that I have mentioned. Governor Heard acting for Louisiana appointed five gentlemen, and he notified Governor Longino of Mississippi, who also appointed

five gentlemen some time in February, and on the 26th of March following these ten gentlemen met in the city of New Orleans, but failed to agree to make any recommendation. The Louisiana commissioners submitted to the Mississippi commissioners their suggestion as to where the boundary was. The Mississippi commissioners asked time to consider the matter. And afterwards on the 20th of July 1901, the gentlemen appointed by Governor Longino addressed a letter to the chairman of the joint commission that had met in Louisiana on the 26th of March, stating that they could not agree to the claims of Louisiana, and suggested a friendly suit between the two States in the Supreme Court of the United States to fix the line. No authoritative action was taken so far as the record shows until the legislature of Mississippi met of the 1st, Monday of January 1902, when Governor Longino called the attention of the legislature to what had transpired and recommended such action as the legislature of 1902 might deem proper. The legislature took no action in the matter, and so far as the counsel for Mississippi is informed the legislature of Louisiana, which met in May 1902, took no action in the matter.

About the 27th of September 1902 the oyster commission of the two States met in Louisiana, and it seems in expectation of the suit that Louisiana was to bring against the State of Mississippi in the Supreme Court of the United States, agreed upon what they called a neutral line, or zone. Which marked certain lines which they expected the citizens of the two States to respect. A line
1921 which run from Malheureux point to Grand pass, following the north shore of what we call the marshes, to the westward side of Grand pass, southward of Sun Down island and into Cat Island channel, thence into the Gulf proper. South of that line was considered exclusively Louisiana territory.

The next line north of the one that I have described followed the deep water sailing line out of the most eastern mouth of Pearl river to a point in the neighborhood of the western end of Cat island, and turning thence to a line at the north mouth of Grand pass that I have before mentioned. Between this deep water sailing line and the north shore of the marsh was left open for both sides, and the territory north and east of the line last above described was exclusively in the State of Mississippi. On the 27th of October, after this meeting about the 27th of September 1902, the bill of complaint in this case was filed in the Supreme Court of the United States and soon thereafter process was duly served upon the governor and the attorney general of the State of Mississippi.

About the 17th of November 1902 Governor Longino, and the attorney general of Mississippi, met Governor Heard and the attorney general of Louisiana in New Orleans in a joint meeting with the oyster commissions of the two States for the purpose of considering either the abrogation of the neutral line, or the modification of the neutral line which had been created by the oyster commissions in September, which meeting adjourned without any action. It has

been my opinion and the counsel for the State of Mississippi that this neutral zone line agreed to by the oyster commissions of the two States in September was oppressive to Mississippians interested in the oyster business, and it is upon this proposition that you have been called to testify in this case.

This statement has been made to you that you may catch
922 the general drift of the case up to this time. I wish you would please tell the commission Governor when you were inaugurated governor of the State of Mississippi?

A. I was inaugurated on the 19th of January 1904.

Q. How long had you lived in the State of Mississippi prior to your inauguration?

A. Since 1868.

Q. Nearly all of your life?

A. Very nearly all of my life.

Q. What positions have you held in your State?

A. I was a member of the legislature in 1890, 1892 and 1894. I was speaker of the house in 1894.

Q. You have held some military offices have you?

A. Yes sir, I was first a captain and afterwards major in the Fifth United States Volunteers, and served about 10 months in Cuba in 1898 and 1899.

Q. If you have any knowledge or information Governor as to the effect upon the people of Mississippi, and especially those interested in the oyster business along the coast that this neutral zone line had or is having at this time, we would be glad to have you to tell the commission in your own way what you know about it?

A. I know very little about the oyster business in Mississippi. Since this suit was instituted and this boundary line has been discussed, I have heard a good deal talk about it. I have had a great many people since I was inaugurated governor to talk to me about the injustice done to the oyster men resident in Mississippi by the line which Louisiana has established. In fact at a meeting of the oyster commission and the citizens of Biloxi last summer the matter was discussed at length. It was urged that Louisiana had arbitrarily established a line and ordered the people of Mississippi to stay out from within these lines. I was told by these oyster dealers that it was very hurtful to their business.

923 Q. Can you say whether the people of this State, and especially those of the coast counties have been or are now satisfied with this line agreed to by the oyster commissions?

A. They are very much dissatisfied. They think that the oyster commission had no authority to establish this line, and they also think, and have so expressed themselves to me, that since the courts have been appealed to, the territory in dispute should in justice to both parties be thrown open to citizens of both States.

By Gen. WILLIAMS:

Q. As governor of the State of Mississippi would you attempt to agree to the proposition above agreed to as the neutral line between the two States?

A. I suppose you mean that as governor of Mississippi would I agree to the line established by the Oyster Commission of Louisiana, or the line agreed to by the two commissions?

Q. The two commissions?

A. Most assuredly I would not. I don't think they have any authority to do that. I don't think the legislature of either State has any authority to fix the line.

Q. Outside of legislative authority would you as governor agree to that. Would you as governor of the State attempt to establish that line?

A. I would not.

Q. Without any legislative authority?

A. I would not. Of course not. I would not undertake to do a vain thing.

By Gen. McCLURG:

Q. If the governor of the State had any thing to do with establishing that line have you any knowledge of it?

1924 A. I have not. It was done during the incumbency of Governor Longino, and I know nothing save that which I have gathered from the newspapers, and heard other people say. I can not speak of my own knowledge.

Q. Had the governor of the State of Mississippi in 1902 any authority that you know of to appoint a commission to settle the boundary between the two States?

A. I don't think there was ever any law enacted by the legislature that authorized him to do so. I have no information on that subject.

Q. Have you any information as to any statute or authority conferred upon the Oyster Commission of Mississippi to settle the neutral zone line that we have been speaking about that was binding upon either side?

A. I know of no such law. I never heard of it.

Cross-examination.

By Mr. DYMOND:

Q. Now Governor as a matter of course as the chief executive of the great State of Mississippi, you necessarily have keenly at heart the welfare of the people of your State?

A. That is very true sir.

Q. At the same time you have been asked to express your opinion and to state what you would do under certain conditions. As a matter of fact would not you before coming to any conclusion in-

estigate for yourself carefully the existing facts, at the time any
.ing would come up before you for settlement?
A. Certainly I would.
Q. And you would be very largely influenced by the equities as
ey appeared to you from a presentation of the facts then
made?
925 A. I would endeavor to do that which was right.
Q. Now have you ever sufficiently studied the facts as they
isted in September 1902 to tell whether the Oyster Commission of
lississippi fully considered the equities of both sides of this con-
oversy at the time they reached the agreement with the Oyster
ommission of Louisiana?

By Gen. McCLURG: This question is objected to because public
ficials are not governed by equities in any sense. They are con-
olled by the letter of the law, and not by equities or any condi-
ons as they may appear to them, and the question should be re-
ricted to what the law was controlling the governor and the oyster
ommission and the public officials.

A. Well now answering your question the oyster commission
ould have no right to act in this matter, and could do nothing
xcept that which the law authorized them to do.
Q. Governor pardon me, I am not asking you for an opinion as
the rights of the oyster commission from a legal point of view.
you will have the question read back to you I think you will
nderstand it better. (The question is here read to the governor as
llows:)—Now have you ever sufficiently studied the facts as they
isted in September 1902 to tell whether the Oyster Commission
Mississippi fully considered the equities of both sides of this con-
oversy at the time they reached the agreement with the Oyster
ommission of Louisiana?
A. Well as I stated a moment ago, to the time I was inaug-rated
had given very little thought and consideration to this oyster
uestion, and I am not familiar with the history of this controversy.
have though been impressed with the almost universal condem-
nation of the people living along the coast of the action
926 taken, along the coast of Mississippi, of the action taken by
the oyster commission in establishing this neutral zone,
aintaining as they have as I stated almost universally, the rights
the people of Mississippi had not been protected in the settlement
the matter.
Q. Now Governor you are a lawyer if I am not mistaken are you
t?
A. Yes sir.
Q. Are you familiar with the decisions of the Supreme Court of
e United States which recognize the rights on the part of each
ate in her sovereign capacity to control the oyster waters within
r borders and to legislate in regard thereto?
A. I have not given very much thought to the matter.

Q. Well assuming that the Supreme Court of the United States in the case of McReady *vs.* Virginia held that each State was entitled to absolutely control the oyster producing waters within her borders, to the extent of excluding if it chose to do so, upon residents therefrom. Then under these circumstances if there was a dispute as to the territorial limits between the two States, and there were valuable oyster properties and oyster waters in the disputed area, would not it be natural to suppose that there was a reason and a cause for the adjustment and determination of this dispute?

A. Yes sir, there would be cause for an adjustment.

Q. That being the case is it not a fact that the legislature of the State of Mississippi in 1902 becoming aware of the growing importance of its oyster industry, provided for and appointed a special commission whose duty it would be to care for and preserve and protect the oyster industry of the State of Mississippi?

A. Yes sir, but that commission did not have the authority to establish boundary lines.

1927 Q. I am not asking you that Governor. I am asking you the simple fact as to whether or not there was not a commission provided for by the act of 1902?

A. I have forgotten that. I don't know that there was any legislative action at all. I am not sure about that year. I told you in the beginning up to the date of my inauguration I had given it very little thought or consideration; that is of this matter. And if any thing was done in 1902 I can not recollect it now.

Q. Then you were not aware of the fact that acting under that legislative act of 1902, that Governor A. H. Longino of Mississippi appointed an oyster commission for Mississippi?

A. I don't think I can say positively, but I don't think there was ever a law enacted by the legislature authorizing Governor Longino to appoint a commission to determine the boundary line between the State of Mississippi and Louisiana.

Q. I recognize that fully other than the original boundary commission, amicable boundary commission appointed by Governor Longino, but what I am referring to now is whether or not this oyster commission authorized by the act of 1902 of Mississippi was not appointed by Governor Longino?

A. I don't remember.

Q. Was not it the commission that met in conference with a similar oyster commission provided for under the act of the Louisiana legislature of 1902 appointed by Governor Heard of Louisiana in 1902, which met with the Mississippi commission on the 27th of September 1902 and fixed this neutral zone?

A. My opinion is that these commissions were appointed without any authority of law whatever. I am talking about these commissions to determine the boundary line.

Q. I am talking about the oyster commissions Governor which actually did agree to the neutral zone?

A. Well I don't know when they were appointed. I could not say now.

1928 Q. Now then as I understand it, while you were not originally well posted naturally on the points in this case, you have since then endeavored to post yourself as well as you could have you not?

A. Well I have given some thought to it yes sir.

Q. As a matter of fact however, you have heard mostly one side of the case. That is the Mississippi side?

A. I have only discussed the matter with Mississippi people.

Q. Well now you are aware if I am not mistaken that the Mississippi contention is based on the theory that she is entitled to all islands within six leagues or 18 miles of her shore, because words to that effect are found in the act of Congress creating the State of Mississippi. Now are you aware Governor that in the act of Congress creating the State of Louisiana that that State was given all islands within three leagues or nine miles of her coast. Are you aware of that fact?

A. Yes sir, I have heard that.

Q. Well now taking that to be the case and looking at this map No. 7, and taking the projections which are shown here in blue lines, if Louisiana was given all waters, we may say, within nine miles of her coast, and if the eastern extremity of Isle à Pitre be taken as the eastern extremity of the Louisiana coast, I would ask that you please notice the water area north of the dotted black line, and compare it with the superficial area south of the northern shore line of the marshes, and north of the red line indicated on this map, and state how in superficial area these two compare?

A. My information regarding this matter, as I stated a moment ago has been derived exclusively from the Mississippi side of the question. Now admitting, as I am perfectly willing to admit, that there are facts on both sides which justify this contention, if there was not this suit, of course, would not be in progress to day. And

1929 the idea that while the question is to be determined as to where this line is, the line dividing the State of Mississippi from the State of Louisiana, the people of Mississippi maintain that pending the consideration that equal rights should be given in the disputed territory to the people of Mississippi with the people of Louisiana.

Q. Well admitting that to be the fact Governor, is there not another alternative, or would there not be another alternative way of settling that by closing up the territory of both States until the matter was settled?

A. That would be, it occurs to me, infinitely more just than to permit one party to the controversy to use that portion of the territory to the exclusion of the other.

Q. But if we have given Mississippi the exclusive right to an equal portion of the disputed territory compared to what we have received the exclusive right to them would there be any injustice

or inequality in this amicable agreement between the two commissions?

A. My opinion whether correct or not, that you may determine,—my opinion is that you have given Mississippi a very small portion of the territory, and in this neutral zone, you are claiming, if I am correctly informed, equal rights in that zone, while at the same time claiming the exclusive right to all the balance of the territory in dispute. Is not that so?

Q. Yes sir. Now you will notice that the neutral zone, that is to be determined on this southern limit by the shore line extending from Isle à Pitre to Malheureux point, which is also shown on this map Mississippi A. now before you, and you will notice that there are a few openings in this coast. And you are informed that the Mississippians for numbers of years passed had regardless of any boundary limit been accustomed to fish all down through
1930 the State of Louisiana, in fact way beyond the 18 mile limit now claimed. And that Louisiana had been authorized to maintain a patrol boat to enforce the Louisiana law, and the Oyster Commission of Louisiana urged that it would be infinitely more difficult, in fact, if not practically impossible, to patrol and control these vessels of Mississippi, unless they came south of this shore line into the Louisiana marshes. Now would that fact have influenced you at all in your conclusions had you been present at the joint conference of these oyster commissions?

A. Well Mr. Dymond, it seems to me if this territory here is in dispute, the territory lying south of the shore line and north of the red line,—if that was in dispute. If there was a question about the title to this territory certainly, pending the suit. Each party to the suit should have equal rights to that in dispute. It is a little like it seems to me two men quarrelling over a corn field. One says to the other "I have possession, and, he says "If you don't like this why then go into court and secure your rights, but while this suit is pending I am going to occupy the corn field and live off of it." The other fellow comes along and says "No, you can not do that. You can not live on it pending this suit. Let's both stay out or both occupy it jointly." He says "No, I am not going to do that but I am going to continue to live on it. After the suit is decided if there is any thing left you may have it if the court gives it to you.

Q. You are figuring out a corn field with a fence around it. While this map shows very nicely marked this 18 mile limit, have you any idea that there is anything in the Louisiana marshes to indicate where this 18 mile limit is?

A. It seems to me that that is a matter susceptible of determination without any tronble.

1931 Q. Have you any idea what it would cost to define that 18 mile limit through the Louisiana marshes?

A. That does not affect the rights of these Mississippians in this controversy. You have gone into the court, and pending this suit certainly Mississippians have got some rights here. Are you going

ep them out and say to them "This matter may go on for years
rears, and we are going to occupy and use this property, this
ory that is in dispute and if perchance the court should decide
you, then, you can go in and get what is remaining." It seems
that it is a very reckless disregard of the rights of one party.
ie rights of Mississippians in this controversy.

But, if we think Governor, that the only thing that prompted
ssippi to lay claim to this territory was when Louisiana en-
ored to exclude her from it?

As a matter of fact I see no necessity for Mississiapi laying
is to that which Mississippi was enjoying. It was never neces-
for her to assert any right until you told her to get off.

You know that the rights that they desired to exercise are in
ater and not on the land don't you?

I understand, but it belongs to Mississippi.

Well they have never pretended to exercise any rights over the
?

Well that is a matter you know I am not prepared to discuss
you now, but I am prepared to say that you have asked the
d States Supreme Court to determine this line.

But when you reach these conclusions Governor, are you aware
e fact that Louisiana is contending, and contended at this con-
ce, that she had been exercising sovereignty over the lands in
erritory, and that it was approved to her 40 or 50 years ago,
ad been levying and collecting taxes thereon, having sold them
ivate people, and no one had ever even whispered a suggestion
of a claim of title?

A. I understand that is one of the evidences of your own-
ership. It is also contended, if I am correctly informed, that
ssippi has been exercising authority over this territory. And
uestion of abstract justice, it occurs to me, that addresses itself
e sense of right of every man, is that pending this controversy,
pending this suit that the interests of both parties to the suit
d be protected equally. It does look like to me when I see
ct of your legislature giving you a patrol boat, that you are ex-
ng the authority of fixing this line. It may be your right.
and may be your own, but it is a matter yet to be determined,
nderstand, but the legislature of Louisiana has gone along and
ded this patrol boat, and the people of Mississippi have been
d off the territory they have claimed, and the State of Mis-
pi has been exercising authority over for the last fifty or
ty five, or nearly 100 years.

So that is what leads you to the conclusions you have ex-
d on your direct examination. That if you had had a hand
e making of this agreement at the time you would not have
it?

Most assuredly I would not. I want to say another thing in
onnection. It is in line with what I have already said. That
ghts of Mississippians in my judgment in this matter have

been violated, and I still think they have as much right to go here and fish as they ever had.

By Gen. WILLIAMS:

Q. On what authority Governor?

A. On the authority that the land belongs to Mississippi.

1933 By Mr. DYMOND:

Q. On the other hand Governor if a man was to enter your house and was to say "This is my house. Get out of it." You would be prepared to resist his encroachment would you not, unless you thought he had some color of right?

A. Certainly.

Q. If you thought he did not have any color of right, if you would say "The best I can do is to let you have half of the house. That is about as far as I can go"?

A. Yes sir.

Q. You don't know from your own point of view how Louisiana felt about this matter. As you have stated the most of your information came from those that are interested in Mississippi's side?

A. That is true, but do you deny a settlement of all controversies in our courts of law. When a matter is before the court for adjustment and adjudication, where property rights are involved, pending a determination of that the court always either party to the suit, but it seems to me the way the matter is being run now the people of Mississippi have been driven off this territory, and the people of Louisiana are enjoying it, but if Mississippi should win this suit, this territory which you are exercising and enjoying exclusive privileges in would go to Mississippi, yet Mississippi would have no recourse to recover from Louisiana the damage that might have been done to this property of hers. The property in dispute.

Q. Well now what recourse have they to recover from Mississippi the two cent tax on that great quantity of oysters that have been taken from the neutral territory Governor?

A. The neutral territory? Mississippi has as much right
1934 to that territory today as you have.

Q. I say, suppose it is decided that the line is the deep water channel?

A. I don't know that you have any recourse whatever.

Q. Would not we be in the exact position that Mississippi would be in?

A. Certainly, but if I am correctly informed Louisiana enjoys all of the privileges of this territory in dispute, that Mississippi has been accustomed to fish in, and in addition thereto you have the exclusive right below the shore line and north or the red line as indicated on that map.

Q. But you seem to forget if I am not mistaken; at least I would be glad to know whether you are also considering the fact that

isiana has given to Mississippi for her exclusive use, an equal or territory within nine miles of Louisiana's coast?

. You mean that north of the coast?

North of the channel?

y Gen. McCLURG: Counsel for Mississippi notices that the nsel for Louisiana speaks of Louisiana giving Mississippi certain ts, and has reference of course to this neutral zone agreed upon. nsel for Mississippi presumes that the counsel for Louisiana mes, that Louisiana owns it and gives it to Mississippi tem-rily, and if counsel for Louisiana has no objection counsel for issippi would be glad for him to state whether he believes as a er that these oyster commissions of the two States had a right tablish this neutral line and to bind either State or both States to it.

By Mr. DYMOND: In answer to which counsel for Louisiana states that he is not on the witness stand and therefore thinks the question is out of order, but he must necessarily reply that isiana contends that in this agreement, and under the circum-ces it was entirely within the province of the two commissions ch were authorized by law to take such action as might be ssary to best subserve the oyster interests of the two States.

Were you aware Governor, that after this agreement was made ernor Longino, aware of the discontent it had caused amongst people of Mississippi, got Governor Heard to call another joint ing of the two commissions at which extensive argument on part of both Mississippi and Louisiana was had, and that the commissions met subsequently in joint session, and the Missis-commission concluded it had no desire to retreat from its origi-greement made with the commission of Louisiana?

I understand there was some thing of that kind. Of my own wledge I don't know what it was. I understand that there was eting, but I don't know what was done.

By Col. ZACHARIE:

Governor, you are aware that under section 4 of the constitu-of the State of Mississippi adopted in 1890, that it is provided the legislature shall have the power to settle disputed boundary een the State of Mississippi and its coterminous States whenever dispute arises. Now suppose the question were to arise tomorrow een the State of Alabama and the State of Mississippi as to her ndary. Would not you consider that you would have the power ppoint a commission to examine into the facts and make a re-in order that you might transmit it to the legislature for their action?

A. There is no question about the authority of the governor to appoint a commission to do anything that he wanted done at character, but the report of this commission should have no

binding effect upon the people of Mississippi or upon the governor himself. It would not have any binding effect upon any body.

Q. Now Governor, this neutral zone was established by this commission in 1902, September 27th, 1902. Governor Longino recognizing that action requested a modification—how many meetings of your legislature, that is of the legislature of Mississippi have been held since 1902, September 27th, 1902?

A. Only one since 1902.

Q. Was there any step taken in that legislature, or any action whatsoever repudiating this action of the Mississippi Oyster Commission or the boundary commission?

A. I don't remember any thing that was done, but I have never seen yet any man, woman or child who regarded the action of this commission in fixing the line as having any legal, binding force upon any thing or any body whatever. I don't think there is any body; I don't think there is a man in the State of Mississippi that thinks so.

Q. Did not Governor Longino so regard it when he asked for a modification of it?

A. I have no idea what he regarded.

Q. Would it not strike you that way, under that statement of fact, if he asked for a modification of the agreement?

A. Evidently he thought it was hardly just to the people of Mississippi, in the agreement that was made, and probably Governor Longino thought it would be better if he could get—if any body was to observe this agreement—it would be better if he could get a more just distribution of the privileges and opportunities in this disputed territory by a modification. I have no doubt but that is
1937 what he thought.

Q. Does not it strike you that asking for a modification of the existing agreement was an acknowledgement of the binding force of the agreement?

A. As a matter of course you know very well as a lawyer that the governor of Mississippi with the authority of law bind the people of Mississippi.

By Gen. McCLURG: The counsel for Mississippi must object that the question only calls for the opinion and surmise of the present governor as to what induced the former governor to act, and to give his opinion as to what the former governor did, which is a very difficult thing for the present governor to do.

By Col. ZACHARIE:

Q. I only asked that question because you said that you supposed that there was not a man, woman or child in the State of Mississippi who regarded that agreement as having any binding effect?

A. I said legal binding effect. I will state in this connection that that has been my observation.

Q. Now Governor in regard to the instance you cited in regard to the corn field. Suppose a man brings a suit claiming that he is in

ession of certain property, and that other persons are trespassing
n that property. Would not the person bringing the suit and
ning the possession be upheld in the possession of this property
ng the pendency of the suit subject to the return of rents and
nues in case that his opponent the defendant, should succeed
ld not the plaintiff remain on the premises and draw from it
rents and revenues until the adverse decision was made against
?

Well that is true, but if he were permitted to do that he
ld be required to give some surety to the other party to the
controversy, that in the event he should lose his case he
could return to this person, the other party to the suit, his
interest in the matter. He would therefore have some pro-
on. In this case if I am correctly informed, Louisiana is en-
ng the exclusive privilege of fishing upon a certain part of this
tory. She is reaping the revenues from it and in the event
issippi should win the case, I know of no recourse that Missis-
would have upon Louisiana to recover that, and in the mean-
Mississippians with equal rights because we must presume that
the court determines the question, are deprived of the privilege
hing upon that disputed territory.

Could not Mississippi if she won this suit, immediately insti-
a suit in the Supreme Court of the United States to recover the
ages which she has sustained by the wrongful act?

I don't know about that, but she ought not to be put to that
ble.

The damages she has sustained by the wrongful action of
siana being Mississippi's contention? If that is sustained, I

Well unless Mississippi should make every effort to protect her
interests in this I don't know that she could.

Redirect examination.

By Mr. McCLURG:

Governor, you stated in your cross examination that you were
ctly willing to admit that there were facts on both sides of this
which justified this controversy, otherwise it would not now be
ing in the court. We are not to understand by that as I take
What you are perfectly familiar with all of the facts of this case
ou?

By Mr. DYMOND: Objected to on the part of the State of Louisiana as leading and suggestive of the answer desired.

I think if you will refer to the question asked there you will
at I used the word "presume." I intended to. The fact is, as
ed in my original examination, that I am not familiar with all
e facts in the case. What I intended to say was I presume there

are facts on both sides which justified this controversy or it would not be in the courts.

Q. The point that I want to call your attention to is, it is denied on the part of Mississippi that there is any such controversy between these two States within the contemplation of the Constitution of the United States, giving to the Supreme Court of the United States jurisdiction. I wanted to ask you whether you were sufficiently acquainted with the facts in the case to say that there is such controversy as the Constitution of the United States contemplated or not?

By Mr. DYMOND: To the question the counsel for the State of Louisiana specifically objects and excepts and protests, as being especially suggestive of the answer desired, and being put with the purpose of trying to correct an admission made by the governor of the State of Mississippi.

A. That is a question of law. What I said in answer to the question above was, that the facts on both sides of this question between the parties to the controversy justified it, I presume they thought so, or the suit would not be prosecuted.

Q. Counsel for Louisiana asked you whether you knew of any act of legislature of the State of Mississippi repudiating what Governor Longino had done in appointing this boundary commission. I will ask you whether you know of any act of legislature, a joint or concurrent resolution of that body ratifying what Governor Longino had done in this matter?

1940 A. I do not.

Q. Do you know of any act or resolution of the legislature of the State passed and adopted respecting this matter whatever?

A. I don't recollect one at this time. I don't think there was any such act or resolution passed by the legislature.

Mr. E. M. BARBER, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows:—

By Gen. MCCLURG:

Q. Mr. Barber where do you reside?

A. In Biloxi, Mississippi.

Q. How long have you lived in Mississippi?

A. Since 1868.

Q. When were you born?

A. In 1858.

Q. So you have lived there all your life except the first ten years?

A. Yes sir.

Q. Have you ever held any office in the State of Mississippi and if so what?

A. I represented Claiborne county in the legislature in 1890. I was presidential elector on the Democratic ticket for the then ser-

enth district in Mississippi in 1900. I now represent the county of Harrison in the legislature of Mississippi.

Q. Where is your present place of residence?

A. Biloxi, Harrison county, Mississippi.

Q. How long have you lived there?

A. Nine years.

Q. I believe you have taken some interest in this suit between Louisiana and Mississippi since its institution Mr. Barber haven't you?

1941 A. I think a little.

Q. You have some information of the neutral line being adopted by the Oyster Commission of Mississippi and the Oyster Commission of Louisiana in September 1902?

A. I have no knowledge as to where that line is located, but I have some knowledge of there having been a line adopted by the joint commissions of Mississippi and Louisiana. The oyster commissions as I understand it.

Q. In September 1902?

A. I think it was in September 1902.

Q. Can you state what effect that had upon the people of your State interested in the oyster industry?

A. Well do you mean financially?

Q. Yes sir.

A. I think it had considerable effect upon the coast of Mississippi. The people living along the coast. As to their financial interests their sources of living etc.

Q. Do you know of any action taken by the people of Harrison county on that subject?

A. I remember that shortly after the boundary commission as it was termed, that was appointed by the governor of Mississippi, and that of Louisiana having failed to agree as to where the line between the two States was, that the oyster commissions of the States, assuming I suppose, that they had the authority to do what they afterwards did, agreed upon what has been considered as the neutral territory. As I have said before I don't know where that neutral ground is. I know nothing about that, but I think that that agreement was made by this oyster commission some time in September 1902. I know a few days afterwards that the feeling run so high along the coast of Mississippi as to what the oyster commissions had done that there was a mass meeting held in the Fireman's hall in the city of Biloxi to protest against this action on

1942 the part of the commissions, at which meeting there was a committee appointed to confer with the board of mayor and aldermen of the city of Biloxi and enlist their assistance, or their aid, in trying to get the governor to take a hand in the controversy and if possible to get a modification or entire repeal or disregard of that agreement made by the oyster commission. At that meeting I was appointed along with two other gentlemen, Mr. E. C. Joullian and Mr. J. D. McKie to go before the board of mayor and aldermen

at their meeting, the following night, I think a regular meeting, and present this matter to the board. Mr. Joullian and myself went before the board of mayor and aldermen. Mr. McKie had to leave the next morning I believe for New Orleans and Jackson and could not be with us that night. Mr. Joullian and myself went before the board and stated to them the object of our visit. The board then took the matter up and appointed a committee of three from the board to confer with this committee composed of Messrs. Joullian, McKie and myself to prepare a letter to the governor and lay the matter before him, and to do what these two committees thought ought to be done in the premises. We held a meeting I think the next day, and prepared a letter to the governor, and transmitted to him a copy of the resolutions passed by the mayor and board of aldermen, with such comments as we thought were proper to make thereon. That letter was very promptly replied to by Governor Longino, and there was then a meeting held shortly afterwards in the rooms of the Commercial club, and Governor Longino was there,
and was apparently doing what he could to bring about a
1943 better state of affairs than then existed, and after that I believe there was a meeting held in New Orleans, a joint meeting.

Q. You were present were you not?

A. Yes sir I was present at that meeting. Only one man I remember to have seen since was at that meeting, that is, I mean for Louisiana, and that was Mr. Dymond. I had the pleasure of meeting him again today. I remember him for his work that day. However I don't think there was any thing come of that meeting would assist Mississippi in righting what she conceived to be wrongs perpetrated on her.

Q. What State officers were here if any on that day?

A. Governor Longino was here, and Gen. McClurg. Gen. McClurg was then attorney general. I don't remember any of the other State officers of Mississippi.

Q. Any State officers of the State of Louisiana?

A. All I remember is Governor Heard. He was there.

Q. Do you remember whether the attorney general, General Guion was there?

A. I don't remember to have seen him. If he was there I did not locate him.

Q. I have here Mr. Barber, a document dated Biloxi, Mississippi November 5th, 1902. By his excellency A. H. Longino, governor of Mississippi, signed by E. M. Barber, E. C. Joullian, committee on the part of the citizens' meeting, T. J. Rossell, J. B. Charin, E. Glennon, committee on the part of the mayor and board of aldermen and also thereto attached copy from pages 130, 131, 132, Minute Book No. 5, of the mayor and board of aldermen of the city of Biloxi, certified to by A. G. Sweatman, clerk of the mayor and board of aldermen of the city of Biloxi on the 24th, day of August
1904, and which document is now in connection with your
1944 testimony produced for identification and offered in evidence as Mississippi Document No. —, copies of which will be

led to the counsel for Louisiana. I wish you would say if
resolutions have reference to the meeting of which you have
en?

They do. The letter, of which a copy you have just given the
sel for Louisiana, is the letter written by this committee, which
ve just mentioned as being appointed by the citizens' meeting,
the mayor and board of aldermen, to the governor of Missis-
, bearing upon this question of the boundary dispute. I think
s written on the fifth of November 1902. That is a copy of
etter press copy which is in my letter book. I have forgotten
umber of the page. I think it is No. 7 or 8, and page 450.

You mean of the letter addressed to Governor Longino?

Yes sir, and that the communication addressed by this com-
e appointed by the citizens' meeting to the mayor and board of
men of the city of Biloxi, and their resolutions authorizing and
inting a committee to confer with the citizens' committee and
ss a letter to the governor of Mississippi. I believe that is all
e documents there.

What have you to say Mr. Barber as to the effect that this
al line adopted by the oyster commissions of the two States
the citizens of Mississippi and especially those on this Gulf
?

Well I only know from hearsay of course. I am not an oyster
r either raw or canned.

I mean from the men affected by it. What is the effect on
?

I understand from the packers as well as the oyster dealers
that it has been very detrimental to their interests.

Q. How about the raw oyster dealers?

A. They have been badly hurt from what they have told
Numbers of times they have not gotten sufficient numbers of
s, and they all think that that territory from which Louisiana
riven them is territory belonging to the State of Mississippi
hey ought to be allowed to go on there.

You are an attorney, practicing I believe at Biloxi, Mr.
r?

Yes sir, and I for one think very strongly that they ought to
owed to go there. I think it very strongly, and I thought it
ongly in the meeting that was held over there, after this, what
ceived to be an arbitrary ruling by these two commissions. I
never been drawn to a soldier's life, but I was willing to go
there with them then and see the boys had their rights.

That is after they drew this line?

Yes sir, Governor Longino and cooler heads prevailed, but I
ht that they ought to go down there.

That is after the filing of the suit in this case?

Yes sir.

The suit was filed on October 27th, 1902?

Yes, sir.

Q. And your resolutions were in November?
A. Yes sir, it was immediately after that.
Q. Then do you know of any threat of violence, or threa
armed conflict between the officers of the parish of St. Bernard
the officers of Harrison county prior to the institution of this
A. No sir, I don't know of my own knowledge of any armed
flict at all.
1946 Q. Do you know of any serious trouble between the
States before this suit was filed?
A. No sir.

Gen. MONROE MCCLURG, a witness on behalf of the State of
sissippi, being duly sworn, testified as follows:

By Gen. WILLIAMS:

Q. Mr. McClurg, you were once attorney general of the St
Mississippi were you?
A. Yes sir.
Q. You were attorney general at the time the suit betwee
State of Louisiana and the State of Mississippi was instituted
not you?
A. Yes sir.
Q. You were attorney general of the State of Mississippi a
time there were some meetings held between the governor o
State of Mississippi and the governor of the State of Louisiana
the attorney generals of the two States, and the oyster commis
of the two States, relative to settling the controversy at the tim
isting between the State of Mississippi and of Louisiana?
A. Yes sir.
Q. Please state to the commission every thing you know rel
to that controversy?
A. To the best of my recollection the first time my attention
called to this while attorney general of the State of Mississippi—
time in October 1902. The process was mailed to Governor Lo
and myself by the clerk of the Supreme Court of the U
States, asking us to accept service which we did. That
1947 my first official act in the matter. The next action take
me as attorney general was to accept the invitation or req
of the governor of Mississippi to go with him to New Orleans
meet the governor of Louisiana, W. W. Heard, the attorney ge
Judge Walter Guion, and the Oyster Commission of Mississippi
the Oyster Commission of Louisiana, to deal in some way with
neutral zone line which had been previously agreed to by the o
commissions of the two States. We met those officials here
went into a discussion of the matter in an informal and general
Mr. Breaux who has testified in this case twice, presided. Gove
Longino insisted that the people of Mississippi were not sati
with the arrangements made by the oyster commission, and so

to have it materially modified, if not to have it abolished. I am not sure, I am rather inclined to think the object was to modify it. My own views then as the official representative of the State, as expressed by me in the meeting was that there was no controversy within the contemplation of the constitution between the two States, and that there was no authority for this neutral zone, and while it was expedient to have the line fixed, I felt precisely as the Boundary Commission of Louisiana felt, and expressed itself to the Boundary Commission of Mississippi, that it was a matter with which the legislatures of the two States should deal. The officers, governors, attorney generals of the two States were requested by some body to retire and leave it to the commissions to further discuss. My opinion is that later we did nothing. My opinion was, as long as I was attorney general, and since, was to the effect that the neutral line worked harmfully to the people of Mississippi interested in
1948 the oyster business, and especially so those interested in the raw oyster business because the lines agreed upon by the two commissions in September 1902 delivered over the marsh territory to Louisiana, and in that territory was found the best oysters for the raw trade. It must be that I had heard some thing of the meeting in January 1901, but I have no recollection of any official action taken by the attorney general until the service of the process upon him some time after the 27th, of October 1902.

Q. General McClurg when were you elected attorney general of the State of Mississippi?

A. I was elected in 1899, and inducted into office January 15th, 1900.

Q. How long had you been in office before you were informed about the controversy between the State of Mississippi and the State of Louisiana relative to the boundary line between the two States?

A. As I stated a moment ago, I must have had some information about the meeting held here in January 1901, but I have no distinct recollection of any action taken by me until November 1902.

Q. By you as what?

A. Attorney general of the State of Mississippi.

Q. You have been engaged with this case on the part of Mississippi since it was instituted on the part of Louisiana?

A. Up to the 4th of February 1903 I looked after it as an official duty, but after I had resigned the office of attorney general and went to Greenwood, some time, I don't remember how long after Governor Longino wrote to me in substance that the duties of the office of the attorney general were so great, and the interests of the State involved in this suit were of such magnitude as to require assistance for the attorney general, and because of my familiarity with it he de-
1949 sired to retain me to aid the attorney general in this suit with the understanding that I look to the legislature for compensation, and I accepted the employment.

Q. Since which time as I understand it you have been regarded as the leading counsel in the case?

A. Well I have followed the case more closely in taking the testimony than any other attorneys in it on our side.

Cross-examination.

By Col. ZACHARIE:

Q. General, you had resigned the office of attorney general before any sort of intimation of your connection in this case as assistant counsel with the attorney general had you not?

A. Why Judge, I would have resigned the attorney general's office a year before I did except for a little pride, and the fact that I would have necessitated under our laws an election to fill the office. I notified the governor and several of my intimate friends that when he got within the time that he could appoint I would quit the office and this case had no more reference to my quitting the office; this case had no reference at all to my quitting the attorney general's office, or any other business consideration outside of the desire to return to a better paying private practice.

Q. Well you say General that the first connection that you had with any of these matters here was an acceptance of the service of the bill of complaint of Louisiana?

A. That is my recollection.

Q. Then when you came to New Orleans with Governor Longino and you found that the Louisiana Oyster Commission was
1950 not willing to modify the pre-existing agreement, was not the concensus on both sides that that should remain as a sort of *modus-vivendi* temporarily, that is to prevent any trouble between the people of the two States?

A. I could not tell you. I don't feel so. I suppose it must have been between the two commissions, but I want to say in this connection that I as an official of the State of Mississippi, and as a citizen of that State, I have been absolutely opposed to that ever since I found out that that agreement had been made. I think it was not only without authority of law, but detrimental to our side of the question.

Q. Was not Governor Longino of the impression that it had better remain as a *modus vivendi* between the two States rather than to risk bringing on some sort of trouble. There was no further effort was there to declare the agreement null and void?

A. My recollection is that I made this suggestion in that meeting Mr. Dymond was there, and perhaps he will remember it as I do. That we have here the governor of Mississippi, and the attorney general of the State of Mississippi, and we have the Oyster Commission of Mississippi. We have here the governor of Louisiana and the attorney general of Louisiana and the Oyster Commission of Louisiana. Let these officials recommend to the legislature of the two States to take this matter up and provide for its adjustment. That it has got to be settled by commissioners after all, whether they are appointed by the Federal court or the United States Se-

se Court, or by the legislature. I thought it would be cheaper
more satisfactory, and I remember Governor Heard stating that
they were not willing to withdraw it from the court. To let
it go along, and so whether Governor Longino and the others
thought it was better to leave it alone, there was no other
rnative left them than to make the fight.
Q. Governor Longino sent in a message, did not he to the legis-
re of 1904 before he went out of office?
A. Yes sir, I introduced it in evidence here today.
Q. Does he mention in there anything about this oyster business?
A. Well the message speaks for itself, but my recollection is that
informed the legislature that at the request of the governor of
isiana he had appointed these boundary commissioners to take
e consideration the determination and the easy method of settling
e question, and recommended the legislature to take such action
t saw proper, but there was no action taken by the legislature of
2 at all.
Q. Did you furnish the Louisiana counsel with a copy of that
sage?
A. Yes sir.
Q. Will did he deliver a message in 1904?
A. Yes sir.
Q. Have you got a copy of this message?
A. Not with me, no sir. We can furnish you a copy and we will
glad to do so.

It is agreed between the counsel for the State of Louisiana and for
State of Mississippi that this session is now adjourned until
nday September 5th, at 11 a. m. at the office of the United States
trict court, at this place, at which time Commissioner William D.
llard will be requested to preside unless there be some agreement
to the contrary, at which time the testimony of Louisiana in
2 rebuttal will be resumed, and should anything in the mean-
time prevent the meeting on that date, another date shall be
ed by counsel for meeting, by agreement both counsel waiving
ten days in this record by previous agreement, at which time the
nsel for the State of Mississippi will be permitted to introduce in
idence any maps or any documentary evidence which may be at
t time in his possession.
The commission here adjourned until Sept. 5th, 1904.

53 In the Supreme Court of the United States.

STATE OF LOUISIANA } October Term, 1904. Original
vs. } Bill Number 11.
STATE OF MISSISSIPPI. }

I, Frank H. Mortimer, commissioner, appointed by the honorable
Supreme Court of the United States in the above entitled and
mbered proceeding, do hereby certify that, under agreement be-

tween counsel for the respective parties therein, of record testimony on behalf of the State of Mississippi was taken before me, at the city of New Orleans, State of Louisiana, on the 27th day of August, A. D. 1904, and that a transcript thereof is contained in the record of testimony for the State of Mississippi, in volume No. 5, beginning at page # 1297 and ending at page # 1387, both inclusive; said testimony being transmitted herewith;

I further certify that the several exhibits offered in connection with said testimony so taken before me, and enumerated and set out therein, each identified by my signature, are also transmitted herewith.

In witness whereof, I have signed these presents at the city of New Orleans, State of Louisiana, this ninth day of February, A. D. 1905.

FRANK H. MORTIMER,
Commissioner.

1954 In the Supreme Court of the United States.

THE STATE OF LOUISIANA
v.
THE STATE OF MISSISSIPPI. } Original Cause No. 11.

I, Frank M. Peyton, certify that in the above styled cause I was appointed and sworn as official stenographer on the part of the State of Mississippi; that the oral testimony on the part of said State was taken down by me in short hand before Hon. William D. Bullard, commissioner for said State, and Hon. Frank H. Mortimer, commissioner for the State of Louisiana, and by me extended in typewriting as shown by the accompanying volumes, to-wit:

Vol. 1 from page 1 to page 303 inclusive.
Vol. 2 from page 303 to page 610 inclusive.
Vol. 3 from page 610 to page 923 inclusive.
Vol. 4 from page 923 to page 1144 inclusive.
Vol. 5 from page 1144 to page 1387 inclusive.
Vol. 6 from page 1387 to page 1496 inclusive.

I certify that said six volumes, in triplicate, the original and one for each State, contains a true and correct report of all the testimony and of the proceedings had in said cause before said commissioners taken down by me and by me extended in typewriting as aforesaid, on the part of the State of Mississippi in said cause.

Witness my signature this November 1, 1904.

FRANK M. PEYTON,
Official Stenographer.

1955 United States Supreme Court.

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI.

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1957 JACKSON, MISSISSIPPI, September 22nd, 1904.

Pursuant to adjournment at New Orleans, September 16th, the commission met at Jackson Mississippi this 22nd day of September 1904, the notice being waived and this meeting being held by consent of counsel.

Present: Hon. William D. Bullard, commissioner for the State of Mississippi. William Williams, attorney general, and J. N. Flowers,

assistant attorney general, and Gen. Monroe McClurg, associate counsel for the State of Mississippi. Col. F. C. Zacharie and Mr. John Dymond Jr., associate counsel representing the State of Louisiana.

In accordance with the agreement of counsel entered into by counsel at New Orleans September 16th, 1904, the State of Louisiana now offers, produces and files in evidence the following documents.

Document No. 103 being a copy of act 65 of 1884 of the legislature of the State of Louisiana authorizing and empowering the attorney general to institute and prosecute suits on the part of said State, a copy of which said document is now tendered to counsel for the State of Mississippi.

And also Document No. 104 being a chronological compilation of the acts of Congress, constitutions, codes and laws and extracts therefrom concerning the State of Mississippi, and boundaries thereof and of certain counties forming the southern coast of said State, a copy of which is furnished counsel for the State of Mississippi.

1958 And also Document No. 105, being a chronological presentation of extracts of acts of Congress, the constitution of Louisiana, laws of the State and boundaries of St. Bernard and Plaquemines parishes in said State, a copy of which is to be furnished to the counsel for the State of Mississippi.

And also the official map of the State of Mississippi compiled by T. S. Hardee and published in 1869 to be known as map No. —.

A photographic copy thereof to be furnished to counsel for the State of Mississippi, if counsel for the State of Louisiana are able to photograph it.

By Gen. McCLURG: Counsel for the State of Mississippi now offer and introduce in evidence on the part of said State the following documents. Mississippi Document No. 81, being that part of the biennial message in pamphlet form of Gov. A. H. Longino to the legislature of the State of Mississippi Wednesday, January 6th, 1904, under the heading "State boundary controversy," being on pages 17 and 18 of said message. A copy of which is now handed to the counsel for the State of Louisiana.

Counsel for Mississippi now offers in evidence Mississippi Document No. 82, being that portion of the report of the U. S. Commission of Fish and Fisheries on the oyster beds of Louisiana by H. F. Moore, dated Washington, Government Printing Office 1899, from page 47 inclusive down to the heading "The natural oyster beds of Plaquemines parish on page 68, and to include the map made of the recognizance of the U. S. Fish Commission steamer Fish Hawk, Lieutenant Franklin Swift U. S. N. commander, February

1959 18th, 1898, a copy of which counsel for Louisiana waives.

Counsel for the State of Mississippi introduces in evidence Mississippi Document No. 83, being portions of the first annual report of the oyster commission of Louisiana, to the governor and General Assembly of that State from August 11th, 1902, to January 31st,

04, dated New Orleans, La. Made 1904, and being those portions said report from pages 5 to 18 inclusive of both, and from pages to 29 inclusive of both. And the communication of Mr. J. B. aylor from pages 73 to 81 inclusive of both, and "The oyster in ouisiana, by John Dymond Jr., attorney Oyster Commission of ouisiana," from pages 83 to 107 inclusive of both, a copy of which cument in all of its parts is waived by the State of Louisiana.

And counsel for the State of Mississippi introduces in evidence as ississippi Document No. 84, which is short and will here be read to the record, as follows:

"Chapter 20 of the Laws of the State of Mississippi of 1842."

An Act Giving Consent of This State to the United States to Purchase a Site on St. Josephs or Half Moon Island for the Purpose of Erecting a Light House Thereon."

"SECTION 1. Be it enacted by the legislature of the State of Mississippi, That the consent of this State be, and the same is hereby ven to the United States, to purchase a site on St. Josephs or Half oon island for the purpose of erecting a light house thereon. Approved February 17th, A. D. 1842."

60 Judge J. A. P. CAMPBELL, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as fol-ws:—

By Gen. MCCLURG:

Q. We have had in this case Judge a good deal of testimony of a cumentary nature, and one of the purposes for calling you on the nd is knowing that you are one of the oldest citizens in the State d perhaps one of its best informed as to her history, we want to k you what you may remember of Eugene W. Hilgard, who was one time State geologist, and who made a geological survey of e State, and also what recollection you may have of Professor L. arper, who made a geological report and map in 1857, and also at you may know of B. L. C. Wailes, who was State geologist, d made a survey, report and map and also what you may know Col. T. S Hardee, who was State engineer. Extracts from the orts of these officials and maps made by them have been introced, and will be introduced in evidence in this case, and we would e to hear from you what you may know of Wailes, Harper, and lgard and Hardee. Please give us such statements about the aracter, qualifications of these men as you may have in memory?

A. I have no recollection of Harper at all. I don't recollect him. an recollect nothing about Harper. I knew Hilgard. I knew him, and I knew of Wailes. I knew very little of Wailes. lgard was a professor in the university and was a man of learn-g. Reputed to be. He went to California, and I am not certain t what he is living in California now. I think he was in the

university in California afterwards, but I don't recollect Harper at all. I do recollect Hilgard and Wailes, but if I knew Harper or any thing of him it has slipped my memory entirely. I think
1961 Wailes and Hilgard were men of reputation; men of character and learning. I knew Hardee. Captain Hardee. I knew him in the army. He was a nephew of General Hardee I think, and he was on his staff I think. I used to see him in Jackson, and he made a map of the State. That is all that I knew about it. I recollect Hardee's map, but nothing more do I recollect about it whatever.

Q. Please examine this book which I now hand you entitled "A Preliminary Report of the Geology and Agriculture of the State of Mississippi by L. Harper L. L. D." ?

A. I have totally forgotten Harper if I ever knew anything about him at all.

Q. And see whether your memory will be refreshed by that book?

A. I don't remember any thing about it. I had been a member of the legislature prior to that, and was after that, but I was not a member of the legislature in 1857. I don't recollect any thing about Harper. I suppose at that time I knew something about him, but he has totally escaped my memory. I recollect nothing whatever about Harper or about his report. I was not a member of the legislature then.

Q. I want you to tell the commission Judge how old you are and what positions you have held in this State. How long have you lived here. A little short biography that the court may know who is talking to them?

A. I was born on the second of March 1830. Admitted to the bar on the 12th of June 1847, when I was seventeen years and two months old, or three months; elected to the legislature at the first election at which I *cloud* vote. I was subsequently elected to the legislature in 1859 when I was absent from home, and was speaker of the house of representatives during two years. Then I was elected one of the seven delegates to represent the Commonwealth of Mississippi to form a southern confederacy, and served in that until the expiration of the provisional government, and after that I was a soldier. I do not suppose you want me to give my military career.

1962 Q. Yes sir, we want it all.

A. Well I was a captain in the army. Lieutenant colonel and colonel, and then after the war I was elected circuit judge of the fifth judicial district and then I was re-elected circuit judge, and then I retired and went to the bar, and on the people of Mississippi coming to the possession of their own I was made supreme judge by Governor Stone and the senate, and at the expiration of my nine years' term I was again made judge by the appointment of Governor Lowry and the confirmation of the senate, and each time I might add without solicitation on my part at all. I did not seek the place either time. I served 18 years and then quit. Governor Stone

wanted to continue me, but I told him that I was tired and wanted to quit.

Q. You codified the laws of this State?

A. Yes sir, I was a code commissioner in 1870 and 1871, one of the commission, and then I was a single codifier by virtue of invitation of the legislature of 1878, and prepared the Code of 1880, and submitted it to the legislature of 1880. I was elected law professor of the university but declined it.

Q. In the answer which has been filed on the part of the State of Mississippi in this case we have referred to the codification of 1880 with reference to the boundaries of Hancock, Harrison, and Jackson counties?

A. Yes sir.

Q. Those sections that we refer to in this answer were prepared by you and adopted by the legislature of the State?

A. Yes sir.

Q. I wish you would please tell the commission Judge, in preparing that codification what you mean by the southern boundaries of these coast counties?

By Mr. DYMOND: To which counsel for the State of Louisi-
1963 ana objects and excepts on the ground that the code is itself the best evidence, and it is not proper to explain it by any verbal testimony.

A. I just followed the Code of 1857. The Code of 1857 was prepared by Sharkey, Ellett and William L. Harris, three very learned and distinguished men, who gave considerable attention to the subject and made considerable report to the legislature. It is set forth in full in the Code of 1857. I adopted that assuming it to be correct and followed it. I knew nothing in the world about the coast country at all. I never paid any attention to it. I supposed then, as I suppose now, that the southern boundary of Mississippi would be determined by the ascertainment of what is 18 miles from the shore. The act of Congress gives the boundaries of the State, and runs from the southeastern point westwardly. That is I suppose intended to vary from the line as the shore varies. I suppose that the southern boundary was 18 miles or six leagues from the Mississippi shore, and that is determinable I suppose as a matter of fact, but I followed in the codification of 1880 on that subject the Code of 1857.

Q. If you have read the act of Congress admitting the State of Louisiana you will notice that she is given three leagues from her coast?

A. Yes sir, I have noticed that.

Q. There is apparent conflict according to the contention of Louisiana between the three leagues of Louisiana to her eastward in Lake Borgne or Mississippi sound and the six league limit to Mississippi's south. What do you think of that proposition?

A. I can not say that I have any opinion on that subject at all.

I am not familiar enough with it to form an opinion that would be worth any thing or that would be satisfactory to me even. It is a subject to which I have never given any attention at all, as to the conflict between the two States.

1964 Q. It is insisted in our answer that Congress had in view a frontage for each State, and that it was not intended Louisiana should reach out in front of Mississippi's territory which was to her east after 1812 when she was admitted into the Union?

A. Well I would think the Supreme Court of the United States would not have the slightest regard to my opinion or any one else's in an investigation of that question. They would determine it from a consideration of the various acts of Congress, and reconcile the real or apparent conflicts between them. I really have no opinion on that subject, but if I had I should not think it would be of any value.

Q. I will ask you to please look at map No. 7. introduced on the part of Louisiana and notice the blue lines indicating the three league limit of Louisiana from different points, and the red line indicating the six league limit of Mississippi from her shore, showing the apparent conflict contended for by Louisiana, and tell us what you have to say about the solution of this question?

A. Nothing. I would not attempt to solve it.

Cross-examination.

By Mr. DYMOND:

Q. Judge Campbell, it has been pointed out to you according to map No. 7. by Mr. McClurg that if Louisiana was given all of the water territory and islands within nine miles of her coast by the act of Congress, and Mississippi was given all islands and water within 18 miles of her coast by the act of Congress, and that brought about an over-lapping of the two as is shown by map No. 7. which act of Congress would be given force and effect in your opinion in the event that there was no possibility of reconciling the two?

1965 A. I should suppose that the earlier act would be operative. It is a subject that Congress had the power to deal with, and I suppose that it could not take back after it made a gift or grant.

Q. Without the consent of the State to whom the land had been given?

A. Well of course. I am assuming that there was no consent about it. I suppose that a grant by Congress is like a grant by any one else. Irrevocable.

Q. You don't pretend to be familiar with the acts of Congress creating the two States in their relation to this disputed territory of it?

A. No sir.

By Col. ZACHARIE:

). You have been examined in regard to Prof. Hilgard. Was he a professor of geology, and had he any reputation as a geogra-r or cartographer?

. I don't know about that. I am not prepared to say. He was rofessor in the university and regarded as a man of learning and lity and good character, but as to his particular specialty and t he was expert in I don't know about that. It has been a long e since I knew him.

). Have you ever heard the correctness of Hardee's map called uestion at all until the inception of this litigation?

.. I don't remember to have heard anything about it good or . Favorable or unfavorable.

). You have stated that in preparing the Code of 1880 you fol-ed the Code of 1857. Do you know or not whether that Code of 7 was the first act of law of the State of Mississippi which claimed sdiction over the islands south of Hancock and Harrison nties?

.. I never examined that subject. I never went behind the Code 857. I accepted that as correct and followed it in the codifica-tion of 1880 without question.

6 Q. The Code of 1857 which I can read to you here was the first code that spoke of the islands south of Harrison and Han-k counties being within the jurisdiction of Mississippi. Now there another code adopted in 1871?

. Yes sir, I was one of the commissioners.

. That code mentioned—, I will read you what that code says: ancock county (established December 14th, 1812,) is bounded by beginning at that point on Pearl river where the line between nships two and three, south intersect said river; thence east on township lines, to the line between ranges 13 and 14 west; nce south on said range line, to the boundary of the State, on the f of Mexico; thence westwardly, on said boundary to the eastern ction of Pearl river with Lake Borgne; thence up Pearl river to beginning." So this mentions nothing about the islands, but s to the southern boundary of the State on the gulf of Mexico. t was the existing law at the time when you prepared the Code 880 was it not?

. Yes sir.

. And the Code of 1871?

. Yes sir.

. It does not mention anything about these islands. Now do remember this section of the acts adopting your Code of 1880, on 98. "The foregoing sections are intended to define the bound-s of counties as heretofore established by law; and if the bound-s, as defined in said sections, are not the same as heretofore es-ished by law, the former law on that subject shall not be held to epealed or affected thereby, but shall remain in force as to said ndaries, notwithstanding the passage of this act."

1967 A. I remember that section very well. I wrote it as a safeguard against possible error that might have been committed in description.

Q. Therefore the act of 1871 being in force prior to the Code of 1880, and the Code of 1871 not saying or mentioning anything about these islands, the Code of 1880 did not repeal the section or those sections of the Code of 1871 which was the then existing law?

A. I suppose not. That section was put in there simply to guard against possible errors in the details of boundaries and things of that sort.

Q. Then in preparing the Code of 1880 you skipped over the Code of 1871, and went back to the Code of 1857?

A. Yes sir, I took that as my guide and model.

Q. And the Code of 1880 differed from the Code of 1857 in fixing the boundaries of these two counties?

A. I don't remember about that.

Q. I just read to you the provisions of the Code of 1871 showing that that did not provide any jurisdiction over these islands?

A. That might not have mentioned these islands, but these islands might have been embraced in that distance. I don't remember about that. I don't suppose it would be necessary to mention the islands. They might cover it by space or distance. So many miles. 18 miles.

Q. Judge, which army of the Confederacy did you serve in?

A. In the western army.

Redirect examination.

By Mr. McCLURG:

Q. You have been questioned Judge about the saving clause that you put in the Code of 1880 respecting the detail of the bound-
1968 aries of all counties. According to the Code of 1880, and the Code of 1871, and the Code of 1857, and the act of Congress admitting Mississippi as a State into the Union, and saying that the southern boundary shall be the shore, including all islands within 18 miles. What was the lawful exercise of sovereignty and jurisdiction of the State of Mississippi in that 18 mile limit, or six league limit under either of these laws?

A. I don't know that I comprehend the full force of that question. The purpose of the provision was to guard against possible error in running the boundary lines of the counties. It was a matter of very great nicety and that was done to avoid error—giving the ranges and townships and sections and subdivisions of a section; it was a very difficult matter and that was done to avoid error, and the purpose of that was to guard against any possible error in the description of the counties in these details, and it was most unfortunate that the codifiers of 1882 did not embrace it, and Governor Stone expressed regret that they had not done so, because it was found that there were various errors in the details of the boundaries. Now that pro-

ision of mine in 1880 was simply intended to guard against possi-
le errors. There were matters that were very prolix of detail, and
iat was the whole purpose of it. Now as to what its effect was——
Q. That is what I wanted to ask you?
A. That is a legal question. I would like to have a concrete
ase; as to its legal effect—I can only state the purpose that I had.
Q. I mean to ask you this. Whether the different statements in
those laws had effect upon the jurisdiction of the State of
969 Mississippi over her six league limit in the waters of the
Gulf?
A. Unless there was some inconsistency between the latter law and
he former law which would operate as a repeal it would have no
ffect. Some times you know repeals take place without any actual
ntent on the part of the legislature, as a necessary effect of the lan-
uage employed. There was no purpose of that sort in the framer
f it, in the writer of it who was myself, but as to what the legal
ffect has been I would have to have a concrete case.
Q. Let's take the act of Congress admitting Mississippi into the
Inion. I will refer you to it as copied in the bill of complaint?
A. The purpose was to preserve the *status quo*.
Q. I understand the purpose, but here is what I want to know.
Whether any of these laws robbed the State of her jurisdiction six
eagues from her shore line in the Mississippi sound or the gulf of
Iexico?
A. I would not think so. I should not think it affected the sov-
reignty of the State where-ever it extended rightfully by law.
Q. In the act of Congress admitting Mississippi into the Union do
ou think she had sovereignty and jurisdiction six leagues from her
iore?
A. I should think so. My idea of the act of Congress as I under-
and it is just this. In using the term westerly it was intended to
ake all the variation from the due western line so as to meet the
tting of the shore, and give the State of Mississippi 18 miles from
hereever should be its shore in a general westerly direction. Tak-
ing all the variation from the true western line. I suppose
970 that is the reason that the word westerly was employed. That
is what I suppose, and then the question I learn is w-ether or
ot Louisiana had not on its eastern shore by virtue of the grant of
ongress a boundary that extended much further east than Missis-
ppi was willing to concede. That is the question as I under-
and it.
Apart from the conflict real or supposed between the acts of Con-
ress I should think there would not be the slightest difficulty in
ttling the matter. Ascertain where the shore line is at any point
nd reach 18 miles south, embracing everything within that I sup-
ose. That is what I would suppose to be the meaning of it, but
hen the question arises as to the prior act of Congress conferring
ghts on Louisiana, that raises a question to be settled by the court

as to which was prevailing. That produces difficulty I should suppose.

Recross-examination.

By Col. ZACHARIE:

Q. Counsel for the State of Mississippi seems to misunderstand the effect of the testimony that we are seeking to bring out. We are now on this point. Laying aside the question of the construction of the act admitting Louisiana in 1812, and the act admitting Mississippi in 1817, and as if the reconciling of whether one act shall prevail over the other or not. We are now on this principle that has been decided by the Supreme Court of the United States. Where there has been a continuous claim and control over territory, whether there would be a species of prescription attached to that which is claiming and exercising jurisdiction over it, no
1971 certain number of years. But in the Long Island case they decided as Connecticut had exercised jurisdiction for a number of years over Goose island. They thought that feature was of great importance in that case. Now we are seeking to prove by the changes in these codes that there was but one period during the whole existence of the State of Mississippi, or Territory of Mississippi in which she claimed any jurisdiction over these islands say from 1857 to 1871, and that in 1871 she abandoned that claim in following the Code of 1857 about these islands. And that when you prepared the Code of 1880, you stated that the boundaries as then existing in the Code of 1871 should still remain as they were. The point in question upon which our examination or cross examination is to show the relinquishment from 1871 up to 1884, because in 1880 you state that you did not then disturb the existing boundaries. Now in your opinion, and we are only asking opinions here would not that be considered as a relinquishment of Mississippi's claim to these islands when it was stricken out in the Code of 1871, which had appeared in 1857 so prominently as claiming for these particular counties?

A. I have no idea that there was any purpose to relinquish anything at all. Whatever might have been done was done ignorantly or stupidly or carelessly I suppose. I don't remember the exact provisions of the Code of 1857 on the subject.

Q. It mentions these two particular counties and says the islands lying south of the shore?

A. What does the Code of 1871 say?

Q. The Code of 1871 left out all about the islands, and went on defining the boundaries just as it existed up to 1857?

A. What was the necessity of mentioning the islands if they are embraced in the limits of the 18 miles?

1972 Q. The question is whether she continued her claim?

A. The acts speak for themselves. I suppose there was no intention of relinquishing any thing. Whatever was done on this

ject was done ignorantly or stupidly or carelessly or some thing that sort, but I suppose you have to make what you can out of phraseology of the text. I have no idea that there was any intion of relinquishing any thing. Of course you are entitled to im what you can from the phraseology of the text, the language the sections. The omission in the Code of 1871 to specify the ls might have been in the idea there was no necessity for it if y were embraced in the limits. It was not necessary to specify mention the islands as to the subject of jurisdiction.

By Mr. DYMOND:

. Might not it also have been due to the fact that the people n compiling the code knew that they were within the area; that se islands were within the area belonging to Louisiana?

. Well I was one of the commission and I did not know any ng about it I am sure. I do not think any of the others did.

. You were not one of the commissioners in 1871?

. Yes sir, I was. Yes sir, I was appointed by Alcorn while I at a distant point, arguing a case. Alcorn wanted to compose commission of one Democrat, one Whig and a carpet bagger. as the favorite among the Democrats, and Judge Johnston among Whigs.

By Gen. MCCLURG:

Q. You did not mention the other one?

A. Judge Lovering was the carpet bagger.

Q. He did not stay long?

. He was a Massachusetts man and he did not know any thing ut Mississippi and its boundaries. Neither Johnston or I knew thing about the boundaries down there I am sure. and whatever done in that respect was a mere inadvertence and not done with purpose to rob Louisiana or to relinquish any claim of Mississi. Of course the thing has to stand as it is written.

. You knew nothing about the character of this country down re?

. Oh no sir, nothing at all. Nothing at all.

he commission here took an adjournment until nine o'clock torrow morning, to meet in the attorney general's office in the cap- at Jackson Mississippi.

JACKSON, MISSISSIPPI, September 23rd, 1904.

ursuant to the adjournment of yesterday afternoon the commis- met this morning in the attorney general's office at Jackson issippi.

here were present Hon. William D. Bullard, commissioner on part of the State of Mississippi. William Williams attorney eral, and J. N. Flowers assistant attorney general, and Hon.

Monroe McClurg, counsel on the part of the State of Mississippi Hon. F. C. Zacharie, and Hon. John Dymond, Jr. associate counsel on the part of the State of Louisiana.

Col. CHARLES C. HOOKER, being recalled on the part of the State of Mississippi, testified as follows:—

By Gen. McCLURG:

Q. In this suit Colonel, extracts from the reports made by State geologists B. L. C. Wailes, printed in 1854, and by L. Harper, printed in 1857, and by Eugene Hilgard about the year 1855, and maps taken from those reports will also be introduced in evidence. I want you to tell the commission what you may know of the competency of these distinguished gentlemen and what their reputation was with reference to their professions?

A. I knew Mr. Wailes very well. He was one of the earliest of our officials in the capacity of geologist. A very able man and very capable. Quite so. A man of high character both professionally and personally. I knew Mr. Harper not so well. It so happened that I did not come in contact much with him, but I think his reputation was good in this capacity as geologist. But Professor Hilgard I was intimately acquainted with. He was always my guest at my house when he came here, and I was his guest at Oxford when I went there. I remember spending a week with him once at one of the commencements. He was a man of the highest character both personally and professionally. His report was a very able one. About the maps I could not say, but anything that either of these gentlemen would append to their reports in the way of a map verifying the report I would say was entitled to entire credit anywhere and everywhere.

1975

Cross-examination.

By Col. ZACHARIE:

Q. Professor Hilgard was a professor in the University of Mississippi was not he?

A. Yes sir, he was.

Q. His peculiar profession was geologist was it not?

A. He was a geological professor when I was there and spent a week in company with my wife. He had just married a very accomplished Spanish lady, and we had some delightful music, and Hilgard was regarded as a scientific man upon any topic that he took any interest in.

Q. Did he ever make any special profession of geography or as a cartographer, or was not it confined to the science of geology?

A. Well I would say Col. Zacharie, that he was a man of very universal information, and I would say further that if there was a man in the State that understood geography of the State of Mississippi it was Hilgard.

1976

Q. How was it with Mr. Wailes?
A. I think that Mr. Wailes was also capable in that regard, though do not know him as well as I did Hilgard.
Q. And Mr. Harper?
A. I can not speak about Mr. Harper so well.
Q. Is it not a fact that as far as these books are concerned. Is it ot a fact for instance that this report of Harper was simply one nade as State geologist of Mississippi. I see the title in preliminary report on geology and agriculture of the State of Mississippi y L. Harper L. L. D., correspondent to the Imperial Museum for he Natural Science, France, etc., State geologist of Mississippi. light not it appear from that work this was simply a report of he geology of the State and agriculture?
A. I would take it so yes sir.
Q. Mr. Harper was not a lawyer was he?
A. I am not aware whether he was or not.
Q. There is nothing in this report which would show that he rer entered into any scientific investigation of the boundaries of he State?
A. I am not aware except that he would not have been appointed o the State geologist's position unless he was a man that had a very ood knowledge of the State of Mississippi, both as to its geology nd as to its geography.
Q. Well now with regard to the report of Mr. Wailes. This reort is a report of the agriculture and geology of Mississippi, embracing a sketch of the social and natural history of the State, by . L. C. Wailes, geologist of Mississippi. Would that report cover ny thing else than the geology and agriculture of the State?
A. I take it not. The report itself covers those grounds 977 as stated in the preface to it.
Q. Then in so far as the question, the legal question in gard to the boundaries of the State, would you consider either one f these gentlemen as an authority on the subject?
A. I would think they would be sir.
Q. You think they would be?
A. Yes sir.

By Mr. DYMOND:

Q. Colonel, do you remember who was the first geologist of these hree gentlemen?
A. I think Mr. Wailes sir. That is my remembrance.
Q. Do you remember when his report was published?
A. I do not sir.
Q. It would appear that Mr. Wailes has attached to his report no nap of Mississippi showing its geology, and no map at all other han the map of the country comprised in the State of Mississippi known in the years 1704 by Eman Bowem, geographer. The State f Mississippi was not a State in 1704 was it?
A. No sir, it was not admitted until 1817.

Q. Now I direct your attention Colonel, to the map entitled Geological Chart of Mississippi of L. Harper, State geologist attached to his report dated 1857, and also to the map entitled Geological Map of Mississippi, by Eugene W. Hilgard, State geologist, entered according to the act of Congress by J. H. Colton & Co. in the clerk's office of the district — of the United States for the southern district of New York in the year 1855, and I direct your attention to the territory lying west of the eastern mouth or branch of Pearl river which on the map of Harper is distinct in the same color as the
1978 territory of Louisiana lying to the westward And on the map of Hilgard as distinct by the same color as the State of Mississippi lying to the eastward, and I ask you which of these two maps correctly delineat-s by color of that territory?

A. Well I don't know. I don't know that I could tell you who is entitled to it.

Q. Do you know what branch of Pearl river it is that determines the boundary between the States of Louisiana and Mississippi?

A. I would say that it is the main branch.

Q. Do you know what the law says?

A. No sir, I don't know.

Q. Could you tell which is the most eastern branch of Pearl river?

A. Do you mean the mouth?

Q. Yes sir?

A. Well this is it right here (witness shows).

Q. That is to the right hand?

A. Yes sir, to the right hand.

Q. Immediately close to the yellow color?

A. Yes sir, right here.

Q. You are now looking at the map of Mr. Harper?

A. Yes sir.

Q. Well now please look at the other map of Mr. Hilgard and state whether that same territory is given to Louisiana on the Hilgard map as it is on the Harper map by color?

A. Yes sir.

Q. Does not the Hilgard map give that territory to Mississippi. That is the territory that is lying east of Pearl river and south of that branch that goes into the Rigolets?

A. You mean that color?

Q. Yes sir?

A. I would say yes sir, I think it does.

1979 Q. The Hilgard map gives it to Mississippi and the Harper map gives it to Louisiana so far as the color is concerned?

A. Yes sir. I think that Hilgard was a man very superior on scientific subjects to either Harper or Wailes?

Q. And if we could show by the organic law creating the States of Mississippi and Louisiana, that is the acts of the United States Congress, that the eastern branch of Pearl river was the boundary

between the States would it then affect your opinion of Mr. Hilgard when it was shown that he had made a mistake?

A. Well I would doubt very much whether Hilgard could make a mistake.

Q. Even though it appeared to your eyes right there?

A. Yes sir.

Redirect examination.

By Gen. McClurg:

Q. Counsel for the State of Louisiana have attempted to have you say because of this coloring that Hilgard has given to Mississippi a part of the land that belongs to Louisiana. I call your attention to the reference on this map which will show that Hilgard intended this coloring to represent the geological formation along the Gulf coast?

A. Yes sir.

Q. And not to mark the boundaries of the State?

A. Yes sir.

Q. You will notice that coloring which shows that that line was colored whether in that point of Louisiana or Mississippi as eliocene?

A. That is the color mark.

Q. That is the geological color and not the boundary color?

1980 A. Yes sir.

Recross-examination.

By Mr. Dymond:

Q. Do you not find the same index of colors on the Harper map at its left hand corner?

A. Yes sir.

Q. A similar index?

A. Yes sir. Now gentlemen, I wish to make a statement of my own motion if you will allow me. I don't know that I can refer to any thing to enlighten you gentlemen in your investigation and to reach a correct conclusion about this matter as to the true boundary between the State of Louisiana and the State of Mississippi, under the respective acts of Congress of 1812 and 1817, and which admitted Louisiana and Mississippi, except to say to you that the first speeches made in the Congress of the United States on the subject of the surveys of the coast, the coast surveys, as it is generally termed; the first speeches that were made of note on the Coast and Geodetic Surveys in the Congress of the United States were made by Jefferson Davis of Mississippi; that was while he was a member of the House and a member of the Senate, and before he became so distinguished in the subsequent history of the country. He had made a great reputation as a scientific man and was no doubt the father, in

my judgment of the establishment of the Coast Survey of the United States, throughout its whole limits from New England to Galveston, and even down to the last portion of the United States. I say that because I am aware of the fact that he has made these speeches. They are now quoted whenever speeches are made on this subject by virtue of their being the true origin of our Coast Survey system, and I think the commission will find from the reports in Miles' register the reports of Congress, in reading these speeches much information on the subject of the true boundary. As I said, when I had the honor to be summoned before the commission in Louisiana, as I said in the remarks that I submitted in New Orleans, that is a question that must depend largely upon the terms of the act in admitting Louisiana in 1812, and the act admitting Mississippi in 1817. It must depend largely upon that. I said in the remarks that I made in New Orleans that I had been of the impression that the line between the two States, the eastern boundary to the end of the main land should project into the ocean and constitute the boundary between the two States on the water. I want to correct that statement to this extent and say, that when the boundary between the two States reaches the terminus of the main land between the States and enters upon the waters of the gulf of Mexico, or Mississippi sound, it must be governed largely by the maps which have been made by scientific engineers who made the Coast and Geodetic Surveys of Louisiana and Mississippi. I say this in explanation of the remarks that I made there.

1981

I remember that Mr. Jefferson Davis resigned his position in the House of Representatives and accepted a position as colonel of the First Mississippi Rifles in the Mexican war. That would put it in 1846 because the Mexican war began in 1846. Subsequent to that time when Mr. Davis came back he was elected to the Senate, and these speeches were made during his incumbency as Representative of Mississippi. There were two representatives at large, Mr. Davis being the one from the South. He being the delegate from the South.

Q. You use the word delegate?

A. I mean Representative. Because the representation in Congress was then two men, Davis being one of them. These speeches on the Coast Survey question were made while he was in the House and possibly continued while he was in the Senate after he returned from Mexico.

1982

Governor A. H. LONGINO, a witness introduced on behalf of the State of Mississippi, being duly sworn, testified as follows to-wit:—

By Gen. MCCLURG:

Q. You are a native of Mississippi and reside in the city of Jackson?

A. Yes sir.

Q. I wish you would please tell the commission your age, and

our profession is and what position you have held in the
Mississippi?
am fifty years old. I am a lawyer by profession and was the
ernor of the State, holding that position from January 1900
ary 1904.
ou have held other positions have you not?
ou mean official positions.
es?
es sir.
lease state what they were?
the outset of my young manhood I was the clerk of the
in Lawrence county, where I — then living. I was elected
at office to the State senate. Afterwards became United
district attorney by the appointment of President Cleveland,
ently chancellor of the Delta district, first by appointment
rnor McLauren, and resigned the chancellorship in the early
1889, and was that year elected governor of the State for the
ginning in January 1900. Since that time I have held no
ficial place.
his suit, you know Governor, is a suit by the State of Lou-
siana against the State of Mississippi respecting the bounda-
ies in the waters of the Gulf, and as much of the matter
nder investigation transpired during your administration
rnor of the State, for the purpose of refreshing your memory
me dates and transactions respecting it, that you may get the
d trend of the present inquiry I will make a cursory review
pertinent facts about which I propose to question you, and
e substantially as follows:—
nuary 1901, it appears there was a kind of mass meeting in
of New Orleans over which Governor Heard of that State
l, and among other actions of that meeting was a request
e governor of Louisiana appoint five gentlemen, and that he
the governor of Mississippi to appoint a like number to ar-
ne easy location of the water boundary between these States.
t Governor Heard acting upon that resolution appointed
d requested you to do likewise, and I have no doubt that
initely remember that you appointed these gentlemen some
February 1901, and on the 26th of March 1901 the ten gen-
met in the city of New Orleans, and entered upon a consid-
of the matters entrusted to them and failed to come to an
ent. It appears that our friends in Louisiana were prepared
ed with their briefs and maps, while the Mississippians had
en the matter so much attention, and asked time for further
ration. About the 20th of July 1901, the Mississippians ap-
by you addressed a letter to the chairman of the joint meet-
March 26th, stating that they could not agree to the lines
by the five gentlemen from Louisiana and suggested a
riendly lawsuit in the Supreme Court of the United States,
nd about that date those gentlemen whom you appointed
nade a similar report to you. So far as the written history

of the transaction shows nothing more was done until the mee
of the legislature on the 1st Monday of January 1902, to which l
lature in your message you reported the transaction that I
mentioned and recommended such action as the legislature m
deem proper to take, and it appears that that legislature too
action in the matter at all.

The next fact is that on the 27th of October 1902 the State
Louisiana files her bill of complaint in this case in the Supre
Court of the United States and as you will remember Mr. McK
ney, clerk of the court, forwarded the process directly to you
the attorney general, requesting that we acknowledge service
return it, as that was the custom in cases of such dignity, and
cess was accordingly acknowledged and process thereof waived.

There was another transaction in the mean time to which
opinion is that you were not a party, and about which I want
ask you during this inquiry, and that is about the 27th, Septem
1892, which is a month before the complaint was filed, it seems t
the Oyster Commission of Mississippi met the Oyster Commiss
of Louisiana and entered into an agreement that a neutral
should be drawn to govern the fishermen during what must h
been then the contemplated litigation between the two States
specting the boundaries.

That line was drawn by the two commissions out of the mo
of Pearl river, following what is known on the Coast and Geode
Survey maps as the deep water sailing line between St. Josep
island, Grand island, as it was formerly known, lat-erly called H

Moon island, thence eastward and southward between Cat isla
1985 and the northeastern point of Isle à Pitre out into the G
proper. North and east of the deep water sailing line
agreed to be exclusively Mississippi territory. From the mouth
Pearl river directly to the northern point of Malheureux point
lowing the coast line of the marshes to Grand pass and then turni
southward from the western boundary of Grand pass to Sun Do
island, thence northeasterly to the deep water sailing channel abo
mentioned, constituted according to that agreement the neutral zon
which both States were to have equal and unrestricted privileges.
south of these lines it was agree- to be exclusively Louisiana territo
and as to this agreement as I will mention further along it appea
and I have no doubt that you well remember, the fishermen of M
sissippi, and those engaged in the raw oyster trade especially, w
very much dissatisfied because they claimed that the best oysters
their trade came from that territory which the Mississippi comm
sion had ceded to Louisiana.

The last record to which I call your attention, and to which y
are a party, had reference to the acknowledgment of process, so
where we will say about the 1st, of November 1902. The transa
tions about which I have just called your attention transpired
September before. The next matter was about the 5th of Nove
ber 1902, a mass meeting of some kind was held in the city

Biloxi, and strong resolutions adopted condemning the agreement made by the oyster commission above referred to, and my recollection is that you were invited to come to Biloxi, and that you did so when another meeting was held, and pursuant to resolutions passed there at the time of your visit, you requested the
1986 governor of Louisiana to name a day, when he and his attorney general and the oyster commission of that State could meet you and your attorney general and the oyster commission of your State in New Orleans to take some action with reference to this line, which the oyster commissions of the two States had agreed to, and that about the 17th, of November 1902, you and the attorney general of Mississippi and the Oyster Commission of Mississippi met Governor Heard and the attorney general of Louisiana and the Oyster Commission of Louisiana in New Orleans. That you insisted on a modification or an abolishing entirely of this agreement which had been entered into and as I remember wholly without effect. Thereupon under your direction the attorney general of Mississippi proceeded with the defense of your State against the bill filed by the State of Louisiana seeking to establish this deep water sailing line which I have mentioned as the true boundary between the two States, and by answer and cross bill finally setting up on the part of the State of Mississippi that the true boundary between the two States was as stated in our answer and cross bill; a line running due south out of the mouth of Pearl river to the main land of Louisiana, on the southeastern shore of Lake Borgne, and thence following said main land eastward and southward and southwestward to a point six leagues or 18 miles from the Mississippi shore; thence to run eastward parallel with the meanderings of the shore line to the Alabama line. Upon these pleadings all issues have been joined and we have been some time taking testimony in this case.

I wish you would state to the commissioner Governor what connection if any you had with the agreement which I have
1987 mentioned and that was entered into between the oyster commissions of the two States respecting this temporary line made in anticipation of the suit, and which the two States were expected to recognize until the final decree had been rendered by the Supreme Court of the United States in this matter?

A. I suppose I could answer that statement of the case as presented by you affirmatively throughout, though much of it is of record and contained in reports. There are many details and particulars of which I would not now undertake to state from memory to be just as has been stated by you, though I assume that in as much as they are of record that you have properly stated them. I had nothing whatever to do with the agreement entered into between the oyster commissions of the two States in agreeing upon the boundary which is termed the neutral territory, and knew nothing of it until after such agreement had been entered into. After this reputed agreement as to the neutral territory complaints came to me as governor from interested citizens of Mississippi living on the

Gulf that the agreement as entered into was interfering and working a great injustice to those engaged in the oyster enterprise in Mississippi and I was called on to do something to change the then status as agreed upon by the commission. My recollection is that I was furnished with copies of resolutions passed by certain parties at a meeting held in Biloxi wherein vigorous protest was made against the authorities of the State of Louisiana who were seeking to restrain parties in Mississippi from taking oysters in the disputed territory. In my desire to bring about any amicable and just arrangement that would secure to the citizens of Mississippi use of the territory in question, and at the same time
1988 be amicable and fair to both sides, I appointed a time when I would go to Biloxi in person, and desired a conference with representative parties there on the subject. I accordingly went to Biloxi, conferred with numerous representative citizens' of that city including the members *if* the city council. A citizens' meeting was called and largely attended at which maps were exhibited and a general discussion of the disputed territory was entered into. There was insistence on the part of some, that as the chief executive of the State of Mississippi that I should defend the territory *vi et armis* if need be so as to give to the interested parties their fishing rights in the disputed territory. I explained to them personally the full situation as I understood it. That it was a legal question about which there was an honest difference of opinion between the people and authorities of the respective States, and which presented a controversy which could only be settled in the courts of the country where both had a right to go, and that such a proposition as getting up a hostile or a military controversy between the friendly States was not for one moment to be considered. That a suit had been filed in pursuance of the recommendation of the committees appointed by the governors of the respective States, which suit would be carried to as speedy a determination as possible in the Supreme Court of the United States, and until such determination could be had, nothing could be done except through operation of the laws of the respective States and by means of friendly agreements between the officials of the two States whereby possibly all action might be stayed and all the territory left as neutral until the case could be settled by the Supreme Court of the United
1989 States. Looking to that end I promised those at that meeting to take the subject up with Governor Heard, and see if we could not agree to some amicable arrangement and have the two oyster commissions, the respective oyster commissions of the States concur therein, so as to have no further friction at all until the case was duly disposed of by the United States Supreme Court. In furtherance of that promise I took the subject up with Governor Heard, and as a result such meeting was held in the city of New Orleans between the governor and Oyster Commission of Louisiana and the same officials of Mississippi, and at which the two law officers of the States, to wit; the attorney generals, the respective attorney generals

present. At that meeting I proposed for Mississippi with the urrence of the oyster commission and the attorney general of State to abrogate all of the agreements made by the oyster com- ions theretofore, defining the neutral territory, and to allow States the free use of the territory until the decision of the case pending, which proposition was declined by the Louisiana ials. I want to say in this connection that as a result of the con- nce which I had with the citizens of Biloxi at the time above ed the plan proposed seemed to be entirely satisfactory, and lutions were adopted by that meeting fully endorsing the plan osed by me, and the part which I had taken to protect the Mis- ppi oyster interests in this controversy. When this meeting— last named meeting between the governors and officials of the States failed to materialize in the results which I had hoped to mplish, the bill filed by the State of Louisiana was duly an- swered and the case is now brought to an issue.

Q. I have in my hand Governor Longino, a document fur- nished me on the 5th, of September 1904 while taking the mony of Mr. E. M. Barber in the city of New Orleans, and I k it has been made a part of the record already, but lest I should istaken about it I desire you to look at it and file it now as ument No. 85. It is dated Biloxi, Mississippi November 5th, 2, and purports to be a letter addressed to you as governor and ed by E. M. Barber, E. C. Joullian, committee on the part of the ens' meeting and T. J. Rossell, J. B. Chinn and E. Glennan, mittee on the part of the mayor and board of aldermen, and ac- panying this copy which I have just mentioned is a document ch purports to be a copy from pages 130 to 131, Minute Book 5 of the mayor and board of aldermen of the city of Biloxi, and esume represents the resolutions of the meeting which called to Biloxi. Please examine it and let it be filed now, or again has been already filed as a part of the record in this case.

he resolutions and the letter referred to above are here offered iatroduced in evidence by counsel for the State of Mississippi, marked Mississippi Document No. 85.

. At your request let it be filed as such exhibit. And I may say his connection that it was in response to said communications that ent to Biloxi at the time above mentioned and had the conversa- tions, and took action with reference to calling the Louisiana l and Mississippi officials together as enumerated. At said Biloxi meeting it was insisted as I have above stated that e thing should be done to protect the rights of Mississippians to e oysters from the disputed territory, and it was insisted that the itory in dispute belonged to Mississippi and that Louisiana was passing there on. They were advised by me that if the Louisi- ns were violating the law as was insisted that the courts of the ntry were open and that the people there should take such legal s as necessary to prevent trespassing by the Louisiana people,

and that if the Louisiana officials were exceeding the law in forbidding our people, or Mississippians, from using the disputed territory, that matter could only be prevented by appealing to the courts of the country, and that the governor of the State was powerless to do more than to suggest to them the employment of the rights which the law gave them and to interpose his friendly offices with the authorities of Louisiana to bring about an agreement by which all the territory should become neutral and remain so until the rights of the respective sides should be fully determined by the Supreme Court of the United States.

Q. In the brief review that I made Governor to refresh your memory as to the history of this matter I made mention of an advisory commission appointed by yourself and Governor Heard upon the request of the mass meeting held in New Orleans in January 1901, to take into consideration the easy determination and location of the boundary between these States. I wish you would state to the commission whether in the appointment of the commission on the part of this State you had any idea that these commis-
1992 sioners had any power or authority to fix and settle a binding boundary between the two States?

A. I knew that such committees had no such authority as indicated by you. They were simply appointed by me upon the request of Governor Heard and their duties were to meet with a like committee of Louisiana and if possible agree upon a correct boundary between the two States; collecting such proof as was necessary, and applying that proof to the law governing the boundary question, and after agreement to so mark the boundary by buoys and other means so that the citizens of the respective States might know their limits. At that time I did not know or comprehend the extent and difficulty of the controversy, but presumed that the facts might be obtained as above stated by this committee of intelligent citizens of the two States who might agree upon it with such certainty as that the two States would ratify their position, and the boundary as established by them might thereafter by proper legislation if need be become an established one between the States.

In selecting a committee I took men whom I believed to be disinterested, men of probity, and fairness and of ability whose decision would carry weight and give confidence to all concerned in the proceedings. Said commissioners were E. J. Bowers and J. H. Kellar of Bay St. Louis. W. A. White and Harry Howard of Biloxi, and J. I. Ford of Scranton, all living on the gulf of Mexico, three of whom are lawyers. After the meeting held in New Orleans with the governor and oyster commission and attorney general, with similar officials from this State, when it was apparent that nothing could be done other than to allow the suit to come to a final determination, that the interests of the State of Mississippi might be properly represented in the suit, upon the advice of
1993 the attorney general, I employed additional counsel to assist him, offering the employment first to W. A. White

and J. I. Ford, who declined it. It was then offered to Bowers and McDonald, who also declined it, and I finally employed a firm at Biloxi, to wit: Messrs. Dodds and Griffith, and when the Hon. Monroe McClurg, then attorney general, resigned such office in Mississippi, owing to his great familiarity with the case and his known ability as a lawyer I retained him also as special counsel to assist in said cause.

Q. The commissioners, or the committee men, which you appointed to undertake the settlement of this matter with the like commissioners or committee men from Louisiana, made a report to you which has already been incorporated in this record?

A. Said committee made written report wherein it was stated that no agreement could be reached, and a friendly suit to determine the matter was recommended by it. Said report was by me transmitted to the legislature of Mississippi at its sitting in 1902, with the request that such action as the wisdom of the legislature approved be taken, and as stated by the counsel for the defense, said body took no action.

Q. I will ask you to state to the commissioner Governor whether prior to the meeting held in New Orleans in January 1901, supposing you had some information of that meeting, you had any information of any kind of any controversy between the people of Louisiana and the people of Mississippi respecting the boundaries between the two States in the waters of the Gulf?

A. I could not state positively as to that, but presume that I had heard rumors of such disagreement. I refer of course to the meeting composed exclusively of Louisiana people.

1904 Q. It is alleged in the bill of complaint in this case that the condition of affairs with reference to the location of the boundary at the time of the filing of the bill had reached a crisis in that there was a threatened armed conflict between the sheriff and other officers of the parish of St. Bernard Louisiana and the sheriff and other officers of the county of Harrison in the State of Mississippi. If you had any information sustaining that charge previous to the filing of this bill on the 27th of October 1902 I would be glad to have you to state to the commission what it was?

A. I had no such information.

Cross-examination.

By Mr. DYMOND:

Q. You were governor in January 1901 when you received from Governor W. W. Heard of Louisiana his letter requesting the appointment by you of this commission, or committee on boundary were you not?

A. Yes sir.

Q. At that time as the governor of the State of Mississippi did you not consider you had the authority to appoint such a commis-

sion in order to gather such evidence, data, and information as you in your position as chief executive of the State of Mississippi thought it would be well to gather on that particular subject?

A. I knew that there was no such commission authorized by law, but as above stated I acted in the matter simply in the effort to bring about an amicable agreement, which the officials and citizens of the two States would accept and which might be ratified by law thereafter if necessary.

1995 Q. Suppose it had been on any other subject Governor, would you not have had the power as the chief executive of this State to have gathered the information necessary through the appointment of a commission, on any subject that would come up of moment to the welfare of the State?

A. I will say that while there was no law that I know of on the subject, I take it that it would be an unwritten law that the chief executive of the State would have authority to gather testimony and to do it in such manner as would most expedite the work, and would give the most confidence in the results, and which might bring about the best results.

Q. Would not it have been necessary for such a committee to have filed data in order that the legislatures of the respective States to have been able subsequently to take intelligent action on such recommendation as that committee might unanimously agree to make in the event it was able to reach an unanimous conclusion?

A. If the legislature accepted the work of the commission as the proper solution of the situation doubtless that body would have required the presentation of the facts which proved the expediency and the justness of their finding.

Q. That would presumably include such a report as the committee would make, in the event that they reached an amicable agreement?

A. Presumably, yes sir.

Q. Would not then such action by the legislature of necessity have to be approved by the act of Congress before any agreement between the two States as to the boundaries would have become effective?

By Mr. McCLURG: I presume that you have reference to
1996 the law which requires that the legislature of both States with the act of Congress, before any part of one State can be eliminated or added to the other.

By Mr. DYMOND: No sir, I refer to that provision of the Constitution which says that no agreement between two States shall be effective until it has the consent of Congress.

A. I did not consider at the time that legislation by either State would be absolutely necessary. On the contrary I had the idea that the facts might be gleaned by this committee by which the boundaries between the States could be marked, and buoyed by them as fixed by the acts of Congress already. The acts of Congress fix the

boundary between the two States, and I suppose that these boundaries simply needed to be marked and the law properly understood by this commission and the facts applied to the law which fixes the boundary, and that this commission might thus buoy the boundary; then if the legislatures of the two States were prepared to accept that as the boundary as fixed by the Congress so as to eliminate controversies between the citizens of the respective States it might do so.

Q. That answer Governor is not responsive to the questions as asked. I will ask the stenographer to read over the question to you so that you may understand it? "Would not then such action of the legislature of necessity have to be approved by the act of Congress before any agreement between the two States as to the boundaries would have become effective?"

A. I understand that before the two States could by any agreement or legislation of said States change the boundary fixed by the Federal law, that the Federal Congress would have to assent thereto, but where the boundary has already been defined by the Federal law I did not understand that the Federal Congress would have to give its assent to the States to mark or buoy the boundary. And in my report to the legislature on the subject I stated as follows: "On February 9th, 1901, I appointed the following named gentlemen as commissioners to confer with a like committee appointed by the governor of Louisiana to consider the water boundary line between the two States, and to arrange for the easy location and identification of the same by a proper buoy system. My idea was that the commission would simply search out the mark of the real boundary between the States as fixed by the acts of Congress.

Q. Now in the appointment of that committee as I understand it you endeavored to get men who were more or less familiar with the locality in question?

A. Yes sir, that was one of the objects.

Q. Did you have any conference with these gentlemen or get any reports from them prior to the final report which was signed by all the committee on the part of the State of Mississippi?

A. As a committee I did not. It is not improbable that I had conversations with some individual members thereof, and about which I do not now recollect.

Q. Do you know a gentlemen by the name of I. Heidenheim?

A. Yes sir, I do.

Q. Do you know a gentleman by the name of F. A. McLean, a member of Congress from the State of Mississippi?

A. I do.

Q. Do you know what became of a report which was made by C. S. Hodgkins, assistant of the United States Coast and Geodetic Survey, made at the request of Mr. Heidenheim through Mr. McLean, a member of Congress from Mississippi?

A. I do not.

1908 Q. Do you know whether that report ever came to the knowledge of this amicable boundary committee appointed by you prior to their making of their report in the month of July, 1901, or to the knowledge of any individual members of it?

A. I do not now remember that I ever heard of such a report prior to this time.

Q. Are you aware of the contents of that report?

A. I am not.

Q. Do you remember, or are you prepared to state what the attitude of the various members of this Mississippi Boundary Committee was on this proposition individually?

By Mr. McCLURG: The question is objected to on the part of the State of Mississippi as irrelevant, and because it is immaterial to the issue joined in this case as to what the individual opinion of these committeemen or commissioners might have been as to the location of the boundary.

A. I have no recollection now of ever having heard any member of the commission express his individual views with reference to the rights of either State in the controversy.

Q. Were you aware that the committee appointed by Governor Heard on this boundary matter had submitted to the Mississippi commission a map composed of the United States Coast and Geodetic Survey charts on which they had delineated Louisiana's claim which map is known in this record as Exhibit E, and is now hanging on the wall there in front of you?

A. I never had any information at all as to what the facts were before those committees, or upon what facts the Mississippi committee predicated its report which was referred by me to the legislature as aforesaid.

Q. Do you not know Governor that there was a disagreement amongst themselves on the part of the Mississippi Boundary Commission and it was only at the last moment that they got together and sent a report declining to negotiate further with Louis-
1909 iana and suggested a suit in the Supreme Court of the United States?

A. I think I had knowledge of that; that there was a disagreement and their report shows such disagreement.

Q. I mean to say, if you understand me, I mean if there was not a disagreement amongst the five members of the Mississippi committee?

A. Yes sir.

Q. Do you know what was the cause of this disagreement?

A. Of my own knowledge, nor from anything I have heard from any members of the committee I do not.

Q. Did not you understand that some of the Mississippi committee were of the opinion that the claim of Louisiana was correct?

By Gen. McCLURG: The counsel for the State of Mississippi re-

now the objection of the said State to this inquiry as to the personal belief, opinion and inclinations of individual members of the committee, for the reasons that it is irrelevant and incompetent, and impertinent to the issue of this case, and for the further reason that the records not only of the appointments of that commission, but also the action of the commission embodied into the original bill of complaint in this case, and the reports of the governor of the State of Mississippi have also been made a matter of record. These official records speak for themselves, and it must be that inquiry into the bias, prejudice, and opinions of individual commissioners in arriving at the conclusions which they did, and which they officially reported is not pertinent to this inquiry.

Q. Did you not understand that some of the Mississippi committee were of the opinion that the claim of Louisiana was correct?

A. I did not understand that from any member of said committee but I did hear it charged by outside parties in Biloxi that notably one member of the committee, to-wit Mr. Harry Howard, was more interested in Louisiana than he was in Mississippi, having larger interests in that State than in this, and it was insisted by some of those who were displeased that Mr. Howard was an improper person to appoint on said committee, and it may be that I heard from such party that his opinion on the committee was biased. These are matters of hearsay and about which I did not charge my memory closely and can not be positive as to the general details with reference thereto.

Q. Personally you knew Mr. Howard to be a multi-millionaire did you not?

A. I knew Mr. Howard was reputed to be a rich man.

Q. You knew that he owned a yacht on the Gulf coast? A steam yacht?

A. I did not know that. I knew that he owned a nap-tha launch and I know that he has a house boat.

Q. Was not he really more familiar with the whole territory by reason of his more frequently going through it than any other member appointed by you on that committee?

A. I could not say of course definitely as to that, but when I appointed Mr. Howard it was with the belief that he was quite familiar with the territory in question, but I did not know how his acquaintance there compared with the other members of the commission.

Q. This committee reported in July 1901. The legislature of Mississippi of 1902 passed an oyster law providing for the first time in the history of Mississippi's control of the oyster industries, for the appointment by the governor of an oyster commission. Is that not correct?

A. That is.

Q. Did you not as governor of Mississippi exercising the powers given in that oyster law appoint an oyster commission?

A. I did.

Q. Was not the oyster commission empowered to take such
2001 action as was necessary to conserve the best intereste of the State of Mississippi in relation to the oyster industry?

A. I so understood it and so understand it now, but I would rather the law would speak for itself on that point.

By Gen. McCLURG:

Q. The law required did it not Governor that you should appoint on that commission men that were not interested in the oyster industry, or oyster business in any way?

A. Well yes sir, that is my recollection.

Q. And you observed the law in making the appointment of the commission?

A. Yes sir, but as I say again, the law speaks for itself. I would not want to put my memory up to speak for all that was in any long oyster law.

By Mr. DYMOND:

Q. How did you become aware that the State of Louisiana following the example of the State of Mississippi, had in the month of July 1902 itself adopted a new oyster law, which for the first time in the history of that State provided for the formation of an oyster commission?

A. I learned that from you Mr. Dymond in a conversation this morning, but I do not now recollect that at the time of the passage of the Mississippi Oyster Commission law that I was aware that Louisiana did or did not have such a law.

Q. Now Governor, when you appointed your oyster commission under the Mississippi law of 1902, the gentlemen whom you appointed had your full confidence and approval did not they as evidenced by your appointment?

A. Yes sir, else I would not have appointed them.

Q. Have you any reason to believe that they did not have at heart the best interests of the State of Mississippi in any arrangements they were making concerning her oyster industry?

2002 A. None whatever.

Q. Well you became aware that in the month of September 1902 that the Oyster Commission of Mississippi and Louisiana met in joint conference to consider the adoption of a *modus vivendi* that would obviate any difficulty resulting from this confusion as to boundary. You were aware of this fact were you not?

A. I became aware subsequent to their making the agreement that such had been done.

Q. Have you any reason to believe that in any negotiations that your committee would have had with the Louisiana committee, your committee would not have done its very best under all of the facts and circumstances as presented to it to have obtained the best conditions for Mississippi that it could?

A. I have no reason to believe to the contrary.

Q. Now do not you as a matter of fact know Governor that after
ou made most earnest effort on the part of your State to get the
eutral ground agreement abrogated, that the two commissions
gain met in joint session and that the Oyster Commission of Missis-
ppi refused to recede from the original agreement that it had made
ith the State of Louisiana through its oyster commission, main-
ining that it had done the best that could be done under the cir-
mstances?

A. I have heard, however, not from the oyster commission or any
ember thereof as I now recollect, that such a meeting was held as is
ferred to in your interrogatory, and that the Oyster Commission of
ississippi then refused to recede from the agreement because the
ster Commission of Louisiana wanted it abrogated to claim other
ritory in dispute, and the Mississippi commission proposed to
ld what it had under the neutral agreement until the suit could
disposed of. Now then I want to say that was a mere matter of
nor which came to me as I now recollect it, and I could not state
m whom I got such information, but I assume that the Missis-
sippi commission, acting for the best interests of Mississippi
3 as indicated by you above thought it was better to take a
part of a loaf than no loaf at all, and so insisted on holding
he former agreement whether right or wrong.

. Now as I understand it Governor, you indicated in your testi-
ny a moment ago that immediately upon finding that no alteration
brogation could be secured in the agreement between the two
er commissions, that the bill of complaint was promptly an-
ed. Are you correct so far as your memory serves you in that
ment?

It may be that the bill was answered anterior to this meeting
een the officials of the two States in New Orleans, where it was
l at my instance to try and get the agreement abrogated and to
of the territory in dispute to become neutral. I am not sure
the bill was answered, but it is my recollection that it was
vard.

Don't you know that the State of Mississippi was allowed sixty
to demur or answer, and that the bill was only filed in the
of October, and the meeting that you refer to was held in the
of November?

Gen. McCLURG: Counsel for Mississippi calls the attention of
unsel for Louisiana to the fact that the pleadings and the rec-
eak for themselves.

Those matters are of record and speak for themselves, but my
ction is that the facts inquired about by you are as indicated
r inquiry.

ow Governor is it not a fact then that in place of meeting our
th an answer, the suit invited by the State of Mississippi, that
matter of fact that it was met with a demurrer, alleging

that there was no dispute between the two States as to the bound
or any thing else that justified the suit?

A. There was a demurrer first interposed.

2004 Q. Was not the demurrer of the character that I h
just stated so far as you are able to recollect?

A. Yes sir, as I recollect it.

Q. Now is it not a fact Governor that this agreement made by t
two oyster commissions, after your futile efforts to have it abrogat
and amended, was recognized and enforced by the oyster comm
sion of the respective States since it has been entered into?

A. I have heard nothing to the contrary.

Q. Now Governor, as I understand it as executive of this Sta
you necessarily acquainted your legislature from time to time whe
it was in session with whatever you did in connection with thi
matter?

A. I did not acquaint the legislature with this meeting held i
New Orleans from which nothing came.

Q. Well did not your legislature know that there was this dis
pute on between the two States as to the boundary?

A. When?

Q. Since this session of 1902?

A. Why doubtless it did.

Q. As I understand it it took no action on the report that you
made at its session of 1902 in which the question of the suit was
suggested by the Mississippi Boundary Commission?

A. Yes sir, no action was taken.

Q. Was not that on the supposition that suit would be filed, and
the matter would have to be met in the ordinary course in the courts
as suggested by yourself?

A. I could not say really what was the motive or idea that moved
the legislature in the premises. I know that there was a report
made and that there was no action taken by the legislature, but I
never heard any legislative opinion about it.

Q. Was it not accepted by you as chief executive of this State
that the invitation of your boundary commission would be complied
with and the suit would be filed to determine this dispute?

2005 A. I hoped that result would follow, and this report was
made with a view to that being done if it met the legislative
approval.

Q. Was it not known to the legislature of 1904 that this suit had
been filed by the State of Louisiana and that there had been an
agreement made between the oyster commissions of the two States
establishing a *modus vivendi*?

A. It was known to the legislature of 1904, in the message which
I had the honor of communicating to that body that such suit was
pending, which message thereon made by me is as follows: "I had
the honor to bring to the attention of the legislature at its session of
1902 the question of disputed boundary between Mississippi and
Louisiana, wherein each State is claiming ownership of and jurisdic-

tion over certain islands in the gulf of Mexico. The legislature having taken no action looking to a settlement thereof, I took the matter up in person and tried in vain to affect an adjustment of said controversy, with my ideas of the rights and merits of Mississippi's claim, and interests in the premises, and I have now to say that since then the State of Louisiana acting through its governor and attorney general have filed a bill against this State in the Supreme Court of the United States, styled The State of Louisiana, complainant, *vs.* The State of Mississippi defendant, wherein the complainant seeks to have the disputed territory adjudged to be the property of that State, and under the executive jurisdiction of its laws. The effect of such decree in favor of complainant would under the operation of the laws of Louisiana prohibit the citizens of Mississippi from taking fish and oysters from the waters in dispute. And said oyster reefs are to a very large extent the dependence for the supply of fish and oysters to the people of Mississippi living on the southern border of the State who are engaged in that particular line of industry. The property in controversy is of great value extending perhaps
2006 into the millions of dollars." Reference is also made to the records of the attorney general's office.

Q. Is it not a fact to your personal knowledge as a citizen of the State of Mississippi that the house of representatives of your legislature appointed a special committee in its session of 1904 to investigate this whole subject matter. That this committee reported to the house of representatives and that notwithstanding that fact no action was had in this whole subject matter by the legislature of Mississippi of the year 1904, although the suit was pending?

By Gen. McCLURG: Counsel for the State of Mississippi objects and excepts to this question because it has reference to matters of official record.

A. No action was taken on the subject prior to my retirement from the office of governor on January 19th, 1904. As to what was subsequently done by that body I am not fully advised and must therefore refer you to the proceedings of the legislature on that subject.

Q. Are you prepared from your general knowledge of the current comment in the community to state whether or not the existence of this *modus vivendi* was or was not known to the legislature of 1904?

A. I presume it was. I think it was. I don't know from any definit- action taken by the legislature or any legislative pronunciament- on the subject that this *modus vivendi* was known to that body, but there were members of the legislature from the counties most interested in the controversy and who were familiar with the proceedings up to this time, and I naturally assume that the matter was discussed and became known to many members of the legislature, but of this I can not speak of my own knowledge.

Q. Are you prepared to state from your knowledge as a
2007 citizen of Mississippi whether there was or was not any action taken by the legislature of 1904 in the line of repudiating the

action of the Oyster Commissions of Mississippi and Louisiana in pr
viding for this neutral territory and *modus vivendi* pending the se
tlement of the controversy by a decree of the Supreme Court of th
United States?

A. I have no knowledge that any such action was taken by the legislature, and am advised and believed that no such action was taken.

Q. Now Governor, you were the executive of this State at the time that this matter was in its initial stages between the States of Louisiana and Mississippi. Are you the same A. H. Longino, who was appointed a commissioner on the part of the State of Mississippi to take the testimony and evidence of Mississippi in this case?

A. I am.

Q. How is it then that you are not acting in that capacity as commissioner now for the State of Mississippi?

By Gen. McCLURG: The question is objected to because it is irrelevant to the issue.

A. I was not an applicant for the appointment and had nothing to do with it, and when appointed by the Supreme Court of the United States to take the testimony I declined to accept the appointment by letter to the Chief Justice of the Supreme Court of the United States.

2008 Redirect examination.

By Gen. McCLURG:

Q. I believe you stated Governor, in answer to the counsel for Louisiana and in answer to the question interjected by me, that the laws of our State require that in appointing an oyster commission of this State, that persons should be appointed who are familiar with the oyster industry and all of its branches, but no person should be appointed who was interested in the business, oyster business, and you said that in making appointments of oyster commissions for this State you respected that statute. That is true is it not?

A. Yes sir.

Q. And you have been interrogated by counsel for Louisiana in this case with reference to the appointment of Mr. Howard and others largely interested in the State of Louisiana. I want to ask you whether or not in making the appointment of these five commissioners, which you were requested by Governor Heard to appoint, whether or not you undertook to appoint and did knowingly appoint gentlemen who are prejudiced and interested in favor of Mississippi?

A. I undertook to appoint men of known probity and competency for the place, and who I then believed and still believe would do, and did do their full duty in the premises as they saw it. I appointed them simply with reference to what I conceived to be their

general fitness for the position, looking only to a right adjustment of the points of difference between the two States.

Q. And as I understood you with a view to ascertain and find the fixed boundary rather than establish a new boundary?

A. Yes sir, and as my report to the legislature shows it was
2009 for the purpose of establishing the real boundary as fixed by the laws of the United States, and when that boundary was found by them to so mark it with buoys so that the citizens in interest in the respective States would know their limits.

Q. You were also questioned about a letter written by Mr. I. Heidenham of Biloxi to Congressman F. A. McLean, and as the record in this case shows it was referred by Mr. McLean to the Coast and Geodetic Survey, and to inform you what has already been disclosed in the progress of this trial by that letter of Mr. Heidenheim, he asked Mr. McLean to have the proper authorities to forward him records pertaining to the boundary in controversy. The Coast and Geodetic Survey it seems had a high subaltern in that department, one Mr. Hodgkins, to take the matter up, and instead of furnishing Mr. McLean, and Mr. Heidenheim through Mr. McLean the records pertaining to this, Mr. Hodgkins turned lawyer and gave a very elaborate opinion as to his views of the boundaries and the possessions of the respective States. That is the letter that counsel have asked you about, and the one that Heidenheim says he had never seen and never heard of until this Mr. Hodgkins took the stand and testified about this matter. You say that that letter was never made a part of the official records of this State and of your office?

A. Not that I have any recollection of whatever. None whatever. If I ever saw it I don't recollect it now, and I don't think I ever saw it. I can say, however that I got numerous letters from Mr. Heidenheim, and if he received it it is not improbable that he sent it to me, and if he did I sent it back to him and don't recollect any thing about it.

Q. Counsel for Louisiana also asked you as to what action
2010 the legislature took with reference to your message to that body during the session of 1904. I hand you a document which I will ask the commissioner to file as Document No. 86, in this case, a copy of which I now hand to the counsel for the State of Louisiana it being a report of special committee appointed to investigate the subject matter of a bill to provide for defraying the expenses of the State of Mississippi in the case of The State of Louisiana *vs.* The State of Mississippi, now pending in the Supreme Court of the United States, wherein the boundary lines of said State are in dispute." Please look at this document and hand it to the commissioner that he may file it as I have requested?

A. I accordingly hand it to the commissioner to be filed.

The report above referred to is here introduced in evidence by the counsel for the State of Mississippi, filed with the commissioner and marked Mississippi Document No. 86.

Q. As to the causes and reasons that led the legislature of 1
to decline to make the appropriation to which the docu ment I ha
just handed you refers, I understand that you are not informed?
A. I am not informed.
Q. If there is anything else that you desire to state about th
matter Governor, I would be glad for you to do so now?
A. As above stated I know personally very little of the facts i
volved, other than those contained in the law and in the record
that have been introduced.

2011 Recross-examination.

By Col. ZACHARIE:

Q. Governor after the knowledge came to you of this agreement
between the oyster commissions of these two States in regard to the
establishment of a neutral zone, did you as executive of the Stat
take any steps to repudiate that agreement?
A. I did not.
Q. Do you know whether the legislature of the State of Missi
sippi ever took any steps?
A. I don't think it did.
Q. The only thing as I understand it is at a subsequent meeting
between Governor Heard and yourself and the oyster commissioners
you endeavored to have that zone which had been established en
larged?
A. Yes sir, that is I endeavored to have all of the lines wiped out
and leave the territory as it had been enjoyed by the two States for
many years prior to that time pending the litigation.
Q. Further than that there was no attempt on the part of the ex
ecutive of Mississippi or of the legislature of Mississippi to disturb
or destroy this agreement in regard to the neutral zone which had
been formerly entered into.
A. There was no such attempted disturbance so far as I was con
cerned acting as governor. I understood that that agreement was
to be only temporary and to hold until the real boundary could be
settled by the court, and that this agreement was only to avert any
further friction and to prevent possible hardships to the citizens of
either State.

Q. Was it not also for the purpose of prevening any vio-
2012 lence or armed clash whether between the citizens of the two
States or of the authorities of the two States?
A. Well as above stated I heard random talk about armed inter
vention, and the request or inquiry was made of me if I did not have
the authority to intervene with the militia and patrol these waters
and if it was not my duty. To that I very promptly replied in the
negative. That it was a legal question that must be settled in a
legal and decorous way in the courts of the country but I hoped
that an arrangement might be entered into in the mean time that

would give satisfaction to the people and preserve substantially their business interests during the period of the pendency of the suit.

Q. Then as I understand it you understood that this agreement as to the neutral zone was a sort of *modus vivendi* during the pendency of the suit?

A. Yes sir.

Q. In order to prevent any clash or trouble between the States?

A. Not only to prevent any clash. I do not think I had in my mind any clash, Colonel, in the sense of violence, but there was conflict of interests and bad feeling, and perhaps legal controversies would intervene. Certainly as the executive of the State I never contemplated any clash of arms between the authorities of the two States on the subject. I knew in fact that nothing of this sort would come. I had confidence in the official force of these counties bordering on the coast to believe that the officers would not do anything of a revolutionary nature. But whatever clash might come would be in the courts in the way of injunctions and arrests for trespass on one side of the other.

Q. And resistence to arrest and so on?

A. Possibly. I don't know that I had that in contemplation at that time. I will say that as governor I never contemplated any clash, any violence. As to what might have been in the minds of individuals I don't know.

2013

Redirect examination.

By Mr. McCLURG:

Q. Counsel has asked you about the reasons and purposes of this *modus vivendi* line, and since you have stated that you were no party to the making of it What you have to say as to the reasons for making it are hearsay from what you have gathered since?

A. That is all.

Q. And this confusion and conflict; a knowledge of all of that came to you after a filing of this bill?

A. Well to what conflict do you refer?

Q. To which you have just testified a moment ago. Following that agreement as to this neutral zone territory. You went to Biloxi some time in the early part of November 1902?

A. Yes sir.

Q. Is that the beginning?

A. It was early in November. It was soon after the receipt of a letter marked Document 85, that I went to Biloxi.

Q. That letter is November 5th, 1902. Prior to that time you had heard of no serious disturbance over the State line between the two States?

By Mr. DYMOND: Objected to by the counsel for the State of Louisiana as leading.

Q. State to the commission whether or not prior to that meeti
at Biloxi that we have just mentioned, whether you h
2014 ever heard of any serious disturbance between the officials
the two States over the boundaries in the waters of the Gul

A. I don't think I ever heard of any serious disturbance betwe
the officials of the two States at all. There was considerable di
satisfaction and excitement on the part of individuals in Mississip
living on the coast.

Q. When?

A. In November and possibly before. I could not state exactl
which or when. Doubtless I had heard of complaints before thi
meeting which I had with the citizens in November. But I heard i
emphasized when I went there as it was in these resolutions that were
passed by the mayor and board of aldermen, and citizens of Biloxi,
but I never heard any violence contemplated between the citizens
of the respective States at all, only as suggested by some parties as
enumerated here in my testimony before, and that I regarded as
mere idle rumor.

Governor A. J. McLAURIN, being duly sworn, testified as follows
on behalf of the State of Mississippi.

By Gen. McCLURG:

Q. Governor, you are a native Mississippian and live at Brandon?

A. Yes sir.

Q. I wish you would tell the commissioner how old you are and
what official political positions you have held in the State of Mis-
sissippi?

A. I was 56 years old on the 26th of last March. I have held
several official positions. I have been district attorney for four
years. I was a member of the house of representatives in the
legislature of the State of Mississippi one term. I was presidential
elector for the State at large in 1888.
2015 I was elected to the United States Senate in February 1894.
I was elected governor in 1895, and served as governor from
the 21st of January 1896 to the 16th, of January 1900 was again
elected to the United States Senate, again elected to the United
States Senate in 1904. I believe that covers the official positions
that I held.

Q. And above all of this you helped to write the constitution of
Mississippi?

A. Yes sir, I was a member of the constitutional convention. I
had forgotten that, and I was once alderman of the town of Brandon,
and mayor *pro-tem.* for about ten days.

Q. It is alleged in this bill of complaint Governor, which is an
alleged controversy over the boundary between Louisiana and Mis-
sissippi in the waters of the gulf of Mexico, that at the time of the
filing of the bill on the 27th, of October 1902, the dispute over the

boundary which I have mentioned had become a crisis, so much so that there was a threatened armed conflict between the sheriff and other officers of St. Bernard parish in the State of Louisiana and the sheriff and other officers in the county of Harrison and State of Mississippi, and I have concluded to ask you if at any time during your administration of the governor's office, or any of the other offices which you have mentioned or as a citizen of the State you have had any information of such a condition of affairs?

A. I never had any information of any controversy or dispute between the State of Louisiana and the State of Mississippi or either of the States as to the boundary line between the States during the time I was governor. I never heard of any controversy until after my term of office had expired as governor, and I don't know what I did hear now.

Q. After the expiration of my term of office as governor, I never heard of any alarming conditions there that I recollect.

Q. Did you have any information of any kind, whether you obtained it as an officer or as a private citizen with reference to any serious disturbance between these two States respecting that boundary prior to the institution of this suit on the 27th, of October 1902, and if so I will be pleased to have you state it to the commission?

2016

A. I have had no such information.

It is admitted and agreed by counsel for the State of Mississippi and for the State of Louisiana that if WILEY N. NASH were present he would testify as follows:—

That he was attorney general of the State of Mississippi from about the 1st, of January 1896 to the 15th of January 1900, and that he had no official knowledge and had no personal knowledge or information of any sort of a controversy or dispute between any officer of Louisiana and any officers of Mississippi, or any of the citizens of the two States over the boundary in the waters of the Gulf in dispute in this suit.

It is also admitted that if present, the Hon. FRANK JOHNSTON would state as follows:—

I was attorney general of Mississippi from January 21st, or 23rd, 1893 until the termination of Governor John M. Stone's second administration. During that period I heard nothing of any controversy between the respective authorities of the States of Louisiana and Mississippi in respect to the boundary lines of the two States in the gulf of Mexico. In fact during that period there was no such controversy.

Until the present controversy arose I supposed that the entire boundary lines between the two States were all ascertained and acquiesced in by all concerned.

I have never investigated the question as to how far out in the Gulf the territorial jurisdiction of the State of Mississippi extended,

but I always supposed that it extended about 16 or 18 miles out, so as to embrace all the outlying islands.

I will state further that I am not familiar with the details and particulars of the present boundary controversy between the
2017 two States.

N. L. WINGO, a witness introduced in behalf of the State of Mississippi, being duly sworn, testified as follows:

By Gen. MCCLUNG:

Q. Mr. Wingo, please tell the commission your age, place of residence and occupation?

A. I am forty years old and live in Jackson Mississippi, and I am a professional photographer.

Q. I show you Mr. Wingo, an orignal copy of Carey's General Atlas, perfected and enlarged, being a collection of the maps of the world and quarters, their principal empires, kingdoms, etc., and on page 23 of this atlas I will ask you to look, and ask you if you have seen this book before and the map marked Mississippi territory, Miles, on page 23 of this collection of atlases, and tell the commission if you have ever seen this Mississippi Territory map before, and if so where you got it, what you were requested to do and by whom you were requested and what you did do?

A. Yes sir, I have seen this map before. It was brought to me by Mr. J. N. Flowers, assistant attorney general of the State of Mississippi with the request to make a photographic copy of the same, which I did of map on page 23.

Q. I show you now what purports to be a photographic copy of Mississippi territory by Miles and ask you whether this is the photograph you made of this map at which you have just looked?

A. Yes sir, this is a photographic reproduction of the same map.

Q. I will ask you to compare this photographic copy with the map on page 23 and tell the commission whether that is a true, correct and exact copy?

A. Yes, sir, that is a true and correct copy.

2018 Counsel for the State of Mississippi here introduces and offers in evidence in this case the photographic copy of said map made by Mr. Wingo, marked as Mississippi Map Document No. 87, and here tenders to the counsel for the State of Louisiana a true copy of the same.

Q. Mr. Wingo, I now show you a map which is marked "Geographical map of Mississippi" by Eug. W. Hilgard, State geologist, prepared by J. H. Colton No. 172 William street New York. I will ask you to say whether you ever saw this map before, and if so when and where, and if you were requested to do any thing with it so state as well as what you did?

A. This map I have seen before and it was brought to me by Mr.

James N. Flowers, assistant attorney general of the State of Mississippi, with the request to make a photographic copy of the same which I did.

Q. I will ask you to look at what purports to be a photographic copy of this map, and request you to compare it with the original now before you, and to say whether it is a true accurate and correct representation of that map?

A. Yes sir, it is. It is a true and correct photographic representation.

The Hon. MONROE MCCLUNG, who has been sworn as a witness in this case now states that the map by Hilgard to which the witness has just testified was by him taken from the Hilgard report of his geological report, and handed to the assistant attorney general for the purpose of having it photographed by Mr. Wingo.

The said original map made by Hilgard is now offered and introduced in evidence on the part of the State of Mississippi as Mississippi Document No. 88 and a copy thereof photographed by Mr. Wingo as above stated is now handed to the counsel for the State of Louisiana.

2019 Q. Mr. Wingo, I will ask you to look at the map which I now take from the Report of agriculture and geology of Mississippi, ubracing a sketch of social and natural history of the State by B. . C. Wailes, member of the American Association for the Promoion of Science, corresponding member of the National Instiute, and of the Boston Society of Natural History etc., published y order of the legislature, E. Barksdale, State printer 1854, and ask ou to examine this map and state to the commission whether you ave ever seen it before, and if so how it came to your observation d what if any thing you were requested to do with it?

A. This map was handed to me by Mr. James N. Flowers, assistt attorney general of the State of Mississippi, with the request o to make a photographic copy of the same which I proceeded slo.

Q. Please examine said map and compare it with the photoaphic copy, which I now hand you and say whether your photoaphic copy is a true, correct and accurate reproduction of said p?

A. It is.

said map is now introduced and offered in evidence on the part he State of Mississippi as Mississippi Map Document No. 89, a y of which is now handed to the counsel for the State of Lou-na.

Mr. Wingo, I will now ask you to look at the map here shown which has upon its face, "Geological chart of Mississippi, by arper, State geologist, 1857" and ask you to say whether you ever seen this map before, and which you now see me take

from "A preliminary report on the geology and agriculture of the State of Mississippi by L. Harper, L. L. D., correspondent of the Imperial Museum and Natural Science for France etc., State geologist of Mississippi by order of the legislature, E. Barksdale, State printer, Jackson, 1857, and tell the commission whether you have seen this map before, if so the circumstances and what you were requested if any thing to do with it, and what you did do with it?

2020

A. This map was also brought to me by Mr. James N. Flowers assistant attorney general of the State of Mississippi with the request to make a correct photographic copy of the same which I did.

Q. Please compare your photographic copy which I now hand you with this map and say whether it is a correct, true and exact reproduction of that map.

A. It is a correct copy of that map.

Counsel for the State of Mississippi now introduces and offers in evidence the original of said map as Mississippi Map Document No. 90, and now hands to the counsel for the State of Louisiana a true copy of the same.

Q. In taking photographic copies of these maps Mr. Wingo, which purport to show the geological surveys of the State and reports thereon by these officials, you could not take the coloring of the maps on the photographic copies that you made of them could you?

A. No sir, that would be an impossibility under our present methods.

Q. Have you been able to show by your photographic copies the boundaries and outlines of the State clear and distinct the same as upon the maps from which your photographic copies were made?

A. Yes sir, I have.

2021 Cross-examination.

By Mr. DYMOND:

Q. Now Mr. Wingo, I understand that you are a photographer by profession and that you recognize the inability of photography to reproduce colors except in shades?

A. Yes sir.

Q. You will please notice this map, Mississippi Map Document No. 87 appearing on page 23 of the atlas of N. Carey published in 1816, and I direct your attention to the extreme southwestern point on this map and ask you to indicate that with a red ink cross on this original photograph offered in evidence?

A. (The witness here places the red ink cross mark as requested.)

Q. Now I will next direct your attention to page 26 of this same atlas, giving a map of the State of Louisiana, and I would ask you to notice whether the State of Mississippi does not join the State of Louisiana at or near the neighborhood — the point as designated by the red ink mark?

A. It does.

Q. Now is there any similarity in the topography of these two maps in that particular locality, and I direct your attention first now to the Mississippi map, to the islands designated, and then direct your attention to the Louisiana map showing the same locality, and ask you if there is any similarity in the topography of the two maps?

A. I find that there is a difference.

Q. What difference do you find?

A. I find that the islands marked on the Mississippi map are some different from the islands marked on the Louisiana map.

Q. On the Mississippi Map Document 87 now in your hand as designated by colors to whom would they be shown to belong. To what State?

A. To Mississippi.

3922 Q. Is there anything on the map of Louisiana to show that they belong to Mississippi?

A. Well I would take it that the islands in both maps are intended to belong to Mississippi.

Q. What makes you think so and where are the same islands?

A. The same islands appear to be near the mouth of Pearl river in both maps.

Q. You will notice that according to the map of Mississippi Lake Pontchartrain opens into the gulf of Mexico, except for the islands in the mouth of Lake Pontchartrain. Do you notice that to be a fact?

A. I do. I notice also that Lake Pontchartrain seems to join with the mouth of the Pearl.

Q. The mouth of Pearl river?

A. Yes sir, according to the map.

Q. Now you will please look at this map of Louisiana and you will find a lake called Lake Borgne, in addition to the lake called Lake Pontchartrain. Is there any such lake as Lake Borgne shown on the Mississippi map No. 87?

A. There is not. It is marked gulf of Mexico.

Q. Now directing your attention to Mississippi Map Document No. 88, being a geological map of Mississippi by Eugene W. Hilgard, and I will call your attention to a small portion of territory forming the extreme southwestern portion of the State of Mississippi which lies between the east mouth of Pearl river, and the water which is south of it, and I wish you would designate the spot by putting a red ink cross at the point designated?

A. (The witness marks the cross on the map as requested.)

Q. Now will you please tell me according to the color scheme of the map marked Mississippi Document No. 88 to what State that territory south of the eastern mouth of Pearl river is given?

A. To Mississippi.

3923 Q. I now ask you to look at the Mississippi map, marked Mississippi Document No. 90, being a geological chart of

Mississippi by L. Harper State geologist, and ask you to designate by a red ink cross the locality which you have just designated on map No. 88, which territory lies south of the eastern branch of Pearl river, after you have designated that point with the red ink cross to state to what State according to the color scheme of this chart the territory in question is given?

A. To Louisiana.

Q. Therefore according to the geological map of Hilgard that particular spot that you have marked is given to Mississippi and by the geological map of Harper that same identical territory is given to Louisiana?

A. According to the color scheme yes sir.

Q. Now your photograph of map No. 87 is not on the same scale as the original is it?

A. No sir, it is reduced.

Q. And the color that appears on the original is lacking from the copy?

A. Yes sir, the coloring is lacking.

Redirect examination.

By Gen. McCLURG:

Q. Counsel for the State of Louisiana have asked you, and had you to make some red cross marks on these original maps, taken from the reports to the legislature of the State of Mississippi by Hilgard and Harper, Mississippi Map Documents No. 88, and 90, and counsel for Louisiana has called your attention to certain colorings. Counsel for Mississippi thinks that your opinion as to whether the coloring gives the territory to one State or the other is incompetent and irrelevant, for the reason that the maps speak for themselves and the Supreme Court will judge for themselves regardless
2024 of what you or other witnesses may say about this matter. I nevertheless, in view of this cross examination ask you to say whether colors given at the points which you have marked with red ink are not shown to be, by the legendary on the maps to have reference to the geology, rather than to the geography of the country and regardless of State boundaries?

A. As I understand these maps the coloring is to designate certain geological formations, but in testifying as to which I think the outline plain and I was going by the colors to designate the State line.

Recross-examination.

By Mr. DYMOND:

Q. What right would a map of Mississippi have to show geology in the State of Louisiana?

By Gen. McCLURG: Objected to on the part of the State of Mississippi as irrelevant and incompetent.

A. I don't know that I could answer that question.
Q. What does this map No. 88 purport to be?
A. A geological map of Mississippi.
Q. Does it color any other part of the State of Louisiana except that designated in the neighborhood of the red cross?
A. It does not.

The oral testimony in this case on both sides is now closed. The right being reserved by agreement of both sides that any other documentary evidence may be filed, that either State desires to introduce on the 1st day of October 1904 when the commission will meet in the attorney general's office in the city of Jackson
2025 Mississippi for the purpose of filing said documents and concluding the evidence in this case.

It is further agreed in making up the record in this case for transmittal to Washington that all evidence, including documentary and maps offered by one side and in the possession of the commissions of the other State, shall be transmitted by such commissioner to the commissioner of the State making the offer, so that the evidence of each State may be made up together, in separate reports and without confusion in the evidence offered by the respective States.

The commission is now accordingly adjourned until the 1st day of October 1904.

2026 JACKSON, MISSISSIPPI, October 1st, 1904.

Pursuant to the adjournment had on Friday September 23rd, 1904, the commission met this 1st day of October 1904 at Jackson Mississippi.

Present: Hon. William D. Bullard, commissioner. Hon. J. N. Flowers, assistant attorney general, and Hon. Monroe McClurg, associate counsel for the State of Mississippi.

Hon. Walter Guion, attorney general for the State of Louisiana, Col. F. C. Zacharie, and Hon. John Dymond Jr., associate counsel for the State of Louisiana.

In pursuance of the agreement of counsel previously made in this case, counsel for the State of Louisiana now offers, produces, and filed in evidence a photographic copy of the map of Louisiana and Mississippi by H. S. Tanner, 1819, marked map No. 66, and a photographic copy of the area of said map, representing the disputed territory in this case marked map 66 A.

It is admitted by counsel in this case that the photographic copy Exhibit 66 A has been compared in its coloring with the original and is found correct.

A copy of said map 66 A is herewith tendered to the counsel for the State of Mississippi, and a copy of the map No. 66 is to be furnished counsel for the State of Mississippi, and both of said
2027 maps are tendered to the commissioner for filing.

Counsel for Mississippi now introduces and offers in evidence the following documents to-wit:

Mississippi Document No. 91, being an extract from a report on agriculture and geology of Mississippi embraced in a sketch of the social and natural history of the State by B. L. C. Wailes, geologist of Mississippi, member of the American Association for the Promotion of Science, corresponding member of the Natural Institute, and of the Boston Society of Natural History, etc., etc., published by order of the legislature. E. Barksdale, State printer 1854, a copy of which is now handed to counsel for the State of Louisiana.

Mississippi Document No. 92, being an extract from the preliminary report on the geology and agriculture of the State of Mississippi by L. Harper L. L. D., correspondent for the Imperial Museum for Natural Science of France etc., State geologist of Mississippi. By order of the legislature of Mississippi. E. Barksdale, State printer, Jackson. 1857. Geographical description of the State of Mississippi.

A copy of which is now tendered to the counsel for the State of Louisiana.

Mississippi Document No. 93, being an act of the legislature of the State of Mississippi of 1857 directing a distribution of Harper's report, etc. A copy of which is now given to counsel for the State of Louisiana.

2028 Mississippi Document No. 94, being an act of the legislature of the State of Mississippi of 1857 defining the duties of the harbor master, and giving jurisdiction to justices of the peace along the coast etc., a copy of which is now given to the counsel for the State of Louisiana.

Mississippi Document No. 95, being a copy of sundry acts of Mississippi Territory relating to coast counties. A copy of which is now given to counsel for the State of Louisiana.

Mississippi Document No. 96, being an act of the legislature of the State of Mississippi of 1830 relating to Hancock and Jackson counties. A copy of which is now handed to counsel for the State of Louisiana.

Mississippi Document No. 97, being a part of an act of the legislature of Mississippi of 1842 relating to the county of Harrison, a copy of which is now handed to counsel for the State of Louisiana.

Mississippi Document No. 98, being a memorial of the legislature of the State of Mississippi to the Congress of the United States, January 26th, 1830. A copy of which is here given to counsel for the State of Louisiana.

Mississippi Document No. 99, being an act of the legislature of the State of Mississippi providing for a survey of the Mississippi coast. Approved February 14th, 1839, a copy of which is now

2029 handed to the counsel for the State of Louisiana.

Mississippi Document No. 100, being a joint resolution of the two houses of the Mississippi legislature to Congress for a light

ouse. Approved February 7th, 1840, a copy of which is now nded to counsel for the State of Louisiana.

Mississippi Document No. 101, being a memorial by the legisla- re of the State of Missis ippi to Congress, of February 22nd, 40.

A copy of which is now handed to counsel for the State of Lou- ana.

Mississippi Document No. 102, being a resolution to Congress con- ning the er-ction of a light house on St. Joseph's island. Feb- ry 22nd 1842. A copy of which is now handed to the counsel the State of Louisiana.

lississippi Document No. 103, being the resolutions requesting Congress of the United States to remove the custom house from rlington to Shieldsborough, October 24th, 1844.

copy of which is now handed to the counsel for the State of isiana.

lississippi Document No. 104, being preamble and resolutions ng Congress to erect a light house, establish a mail route on the t of Mississippi etc., February 5th, 1846.

copy of which is now handed to counsel for the State of Mis- sissippi.

Mississippi Document No. 105, being a copy of an act of the legislature of the State of Mississippi to authorize the ing of the first annual report on the agriculture and geological ey of the State, March 1st, 1854.

copy of which is now handed to counsel for the State of Lou- a.

ssissippi Document No. 106, being an act of the legislature of State of Mississippi to enable the United States of America to t the title to St. Joseph's island. November 19th, 1857.

copy of which is now handed to counsel for the State of Lou- .

sissippi Document No. 107, being a copy of a part of an act of ess to establish a separate territorial government for the east- art of Mississippi Territory. Approved March 3rd, 1817 U. S. es at Large, volume 3. page 371.

opy of which is now handed to counsel for the State of Lou-

sissippi Document No. 108, being a part of an act of Congress rizing the erection of certain light houses and for other pur- March 3rd, 1847. Page 175 volume 9. United States Stat- Large.

opy of which is now handed to counsel for the State of Lou-

Mississippi Document No. 109, being a part of an act mak- ing preparations for light houses, light boats, buoys etc., and providing for the erection and the establishment of the same r other purposes. Approved August 18th, 1856, page 95, 11. U. S. *States* Statutes at Large.

A copy of which is now handed to counsel for the State of Louisiana.

Mississippi Document No. 110, being an act of the legislature of the State of Mississippi for the relief of John Quavre, November 24th, 1821.

Laws of Mississippi 1821 page 21.

A copy of which is now handed to counsel for the State of Louisiana.

Mississippi Document No. 111, being the certificate of the circuit clerk of Hancock county as to his search for the records and files, relating to the case of the State of Mississippi against John Baker, and Martin Hagan.

A copy of which will be furnished to counsel for the State of Louisiana.

Mississippi Document No. 112, being copies of the laws and documents, and extracts from the laws and documents taken from the journals of William C. C. Claiborne, and David Holmes, certified by Dunbar Roland director of the department of archives and history of the State of Mississippi.

A copy of which is now given to counsel for the State of Louisiana.

2032 The taking of testimony in this case is now finally concluded by both sides, this being the day fixed by the Supreme Court for the concluding of the testimony on both sides.

The definitive treaty of friendship and peace between His Britannic Majesty, the Most Christian King, and the King of Spain, concluded at Paris, the 10th day of February, 1763; to which the King of Portugal acceded the same day.

In the name of the most holy and undivided Trinity, Father Son and Holy Ghost. So be it.

Be it known to all those to whom it shall, or may, in any manner belong.

It has pleased the Most High to diffuse the spirit of union and concord among the princes, whose divisions had spread troubles in the four parts of the world, and to inspire them with the inclination to cause the comforts of peace to succeed to the misfortunes of a long and bloody war, which, having arisen between England and France, during the reign of the most serene and most potent prince, George the Second, by the grace of God, King of Great Britain, of glorious memory, continued under the most serene and most potent prinse, George the Third, his successor, and, in its progress, communicated itself to Spain and Portugal, consequently, the most serene and most potent prince, George the Third, by the grace of God, King of Great Britain, France, and Ireland, Duke of Brunswick and Lunenbourg, arch-treasurer and elector of the holy Roman Empire; the most serene and most potent prince, Louis the Fifteenth, by the grace of God, Most Christian King; and the most serene and most potent prince, Charles the Third, by the grace of God, King of Spain, and of the Indies; after having laid the foundation of peace in the preliminaries, signed at Fontain-bleau the 3d of November last; and the most serene and most potent prince, Don Joseph the Fifth, by the grace of God, King of Portugal and the Algarves, after having acceded thereto; determined to complete, without delay, this great and important work. For this purpose, the high contracting parties have named and appointed their respective ambassadors extraordinary, and ministers plenipotentiary, viz. His Sacred Majesty, the King of Great Britain, the most illustrious and most excellent lord, John, Duke and Earl of Bedford, Marquis of Tavistock, &c. his minister of state, lieutenant-general of his armies, keeper of his privy seal, knight of the most noble Order of the Garter, and his ambassador extraordinary and minister plenipotentiary to His Most Christian Majesty; His Sacred Majesty the Most Christian King, the most illustrious and most excellent Lord Cæsar Gabriel de Choiseu Duke of Praflin, peer of France, knight of his order, lieutenant general of his armies, and the province of Brittany, counsellor in all his councils, and minister and secretary of state, and of his commands and finance; His Sacred Majesty the Catholic King, the most illustrious and most excellent lord, Don Jerome Grimaldi, Marquis de Grimaldi, knight of the Most Christian King's orders, gentleman of His Catholic

Majesty's bed chamber in employment, and his ambassador extraordinary to His Most Christian Majesty; His Sacred Majesty the Most Faithful King, the most illustrious and most excellent lord, Martin de Mello and Castro, knight professed of the Order of Christ, of His Most Faithful Majesty's council, and his ambassador and minister plenipotentiary to His Most Christian Majesty.

Who after having duly communicated to each other their full powers, in good form, copies whereof are transferred at the end of the present treaty of peace have agreed upon the articles, the tenor of which is as follows: * * *

VII. In order to re-establish peace on solid and durable foundations, and to remove forever all subjects of dispute with regard to the limits of the British and French territories on the continent of America, that for the future, the confines between the dominions of His Britannic Majesty, in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the River Mississippi, from its source to the River Iberville, and from thence by a line drawn along the middle of this river, and the Lake
2034 Maurepas and Pontchartrain, to the sea; and for this purpose the Most Christian King cedes, in full right, and guaranties to His Britannic Majesty, the river and port of the Mobile, and every thing which he possesses, or ought to possess, on the left side of the River Mississippi, except the town of New Orleans, and the island in which it is situated, which shall remain to France; provided that the River Mississippi shall be equally free, as well as the subjects of Great Britain, as to those of France, in its whole breadth or length from its source to the sea, and expressly that part which is between the said island of New Orleans, and the right bank of that river, as well as the passage both in and out of its mouth. It is further stipulated, that the vessels belonging to the subjects of either nation, shall not be stopped, visited, or subjected to the payment of any duty whatsoever. The stipulations, inserted in the IVth article in favor of the inhabitants of Canada, shall also take place with regard to the inhabitants of the countries ceded by this article. * * *

XX. In consequence of the restitution stipulated in the preceding article, His Catholic Majesty cedes and guarantees, in full right, to His Britannic Majesty, Florida, with Fort St. Augustine, and the bay of Pensacola, as well as all that Spain possesses on the continent of North America, to the east or to the south-east of the River Mississippi; and, in general, everything that depends on the said countries and lands, with the sovereignty, property, possession, and all rights acquired by treaties or otherwise, which the Catholic king, and the Crown of Spain have had, till now, over the said countries, lands, places, and other inhabitants; so that the Catholic king cedes and makes over the whole to the said king, and to the Crown of Great Britain, and that in the most ample manner and form. His Britannic Majesty agrees, on his side, to grant to the inhabitants of the countries, above ceded the liberty of the Catholic

ligion; he will consequently give the most express and the most ffectual orders, that his new Roman Catholic subjects may profess e worship of their religion, according to the rites of the Roman urch, as far as the laws of Great Britain permit; His Britannic ajesty further agrees that the Spanish inhabitants, or others, who ve been subjects of the Catholic king in the said countries, may tire with all safety and freedom wherever they think proper; and y sell their estates, provided it be to His Britannic Majesty's bjects, and bring away their effects, as well as their persons, with- t being restrained in their emigrations, under any pretense what- ver, except that of debts, or criminal prosecutions; the term, ited for this emigration being fixed to the space of eighteen nths, to be computed from the day of the exchange of the ratifi- ion of the present treaty. It is moreover stipulated that His tholic Majesty shall have power to cause all the effects, that may ong to him, to be brought away, whether it be artillery or other ngs.

(Page 233 Annual Register, vol. 5. 1762)

Endorsed:) Original, England and Spain, 1763. Louisiana *vs.* ssissippi. Doc. Miss. 1. Filed June 1st 1904 Wm. D. Bullard, mmissioner. Office Supreme Court U. S. Filed Mar. 13 1905 nes H. McKenney, clerk.

5 MISS. DOCUMENT NO. 2.

Definitive Treaty of Peace and Friendship between His Britannic Majesty and the Most Catholic King, Signed at Versailles the 3d Day of September, 1783.

As Published by Authority.

e it known to all those whom it shall or may in any manner cern. The most serence and most potent prince George the rd, by the grace of God, King of Great Britain, France and Ire- d, Duke of Brunswick and Lunenbourg, arch-treasurer and tor of the Holy Roman Empire, &c. and the most serene and t potent prince Charles the Third, by the grace of God, King of in, and of the Indies &c. being equally desirous to put an end to war, which for several years past afflicted their respective domin- , accepted the offer which Their Majesties the Emperor of the ans, and the Empress of all the Russias, made to them, of their position, and of their mediation: * * *, have agreed upon following articles.

* * * * * * *

rt. V. His Britannic Majesty likewise cedes and guarantees, in right to His Catholic Majesty, East Florida as also West Florida. Catholic Majesty agrees that the British inhabitants, or others

who may have been subjects of the King of Great Britain in the said countries, may retire in full security and liberty, where they shall think proper, and may sell their estates and remove their effects, as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except on account of debts or criminal prosecutions; the term limited for their emigration being fixed to the space of eighteen months, to be computed from the day of the exchange of the ratifications of the present treaty: but if, from the value of the possessions of the English proprietors, they should not be able to dispose of them within the said term, then His Catholic Majesty shall grant them a prolongation proportionate to that end. It is further stipulated, that His Britannic Majesty shall have the power of removing from East Florida all the effects which may belong to him, whether artillery or other matters.

(Endorsed:) England and Spain. 1782. Original. Louisiana *vs.* Mississippi. Miss. Doc. No. 2 Filed June 1st 1904 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney clerk.

2036 MISS. DOCUMENT No. 3.

Chapter 22, Volume 2, United States Statutes at Large.

Chap. XXII.—An act for the disposal of certain tracts of land in the Mississippi territory, claimed under Spanish grants, reported by the land commissioners as antedated, and to confirm the claims of Abraham Ellis and Daniel Harregal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the several tracts of land, in the Mississippi territory, the titles to which have been derived under Spanish claims and which have been disallowed by the boards of commissioners east and west of Pearl river, on suspicion of the grants, warrants or orders of survey, on which the claims are grounded, being antedated or otherwise fraudulent, and which are embraced in the report of the said boards of commissioners, laid before Congress, agreeable to the third section of an act, *intitu*led, "An act supplementary to the act *intitled* An act regulating the grants of land, and providing for the disposal of the lands of the United States, south of the State of Tennessee," shall be, and the same are hereby directed to be sold, in the same manner, at the same price, and on the same terms and conditions, as have been, or may be by law provided for the sale of the other public lands in the said territory; and any person or persons claiming under a Spanish grant, warrant, or order of survey as aforesaid, shall be entitled to institute, in the highest court of law and equity in

e said territory, his or their suit or action for the recovery of the act or tracts so claimed as aforesaid: Provided: such claimant or aimants shall institute his or their suit or action within the term one year from and after the tract or tracts so claimed shall have en sold by the United States, or in case the same is now inhabited d cultivated, in virtue of a pre-emption right within one year om and after the passing of this act; and if any person or persons, aiming lands as aforesaid, shall fail or neglect to commence or in-tute his or their suit or action, in the manner and within the time scribed by this section, or shall be non-suit or discontinue the ne, his or their right to commence such suit or action, in any art whatsoever, shall be forever barred and foreclosed.

SEC. 2. And be it further enacted, That if the person or persons aiming under such grant, warrant or order of survey, shall make ppear to the satisfaction of the court, before whom such suit or ion shall be pending, that the tract of land therein specified, was ually surveyed prior to the twenty-seventh day of October, one ousand seven hundred and ninety-five, then, and in that case, the e shall be deemed and held to be good and valid, to all intents l purposes, anything in this act to the contrary notwithstanding: t in no case the claimant or claimants shall fail to prove the tract tracts of land so claimed, to have been actually surveyed prior to twenty-seventh day of October, one thousand seven hundred and ety-five, or in case the same shall appear to be otherwise fraud-nt or illegal in the grant, warrant or order of survey, granted by Spanish government, as aforesaid, by virtue of which such tract racts of land may be claimed, shall be, and the same is hereby lared null and void, to all intents and purposes, and shall not be l in evidence against any claim or certificate of preëmption, de-d from the United States.

ECTION 3. And be it further enacted, That it shall be lawful, in trial of such suit or action, for either party to introduce parole dence for the purpose of supporting or invalidating the grant, rant or order of survey as aforesaid; and the judgment, sen-e or decree of the said highest court of law or equity, in the ase aforesaid, shall be final and conclusive between the parties, and may be plead in bar to any subsequent suit or action brought in the same or any other court, for the recov-of the same land or any part thereof.

EC. 4. And be it further enacted, That Abraham Ellis, be and s hereby confirmed in a tract of land granted by the British gov-nent of West Florida to Stephen Jordan, containing the quan-of two hundred acres, lying and being on the waters of Boyd's k, according to the metes and bounds of said tract of land set in the plat thereof made by the surveyor-general of said prov-of West Florida; and that the amount of money which the Ellis may have been compelled to pay to the receiver of public ies west of Pearl river, in the Mississippi territory, for said of land, be refunded to him by the receiver aforesaid.

SEC. 5. And be it further enacted, That Daniel Harregal be and he is hereby confirmed in his title in fee simple to the tract of land whereon he resides, containing the quantity of five hundred and fifty acres, agreeably to a plat thereof filed with the register of the land-office, west of Pearl river, in the Mississippi territory. Approved, February 28, 1809.

(Endorsed:) Original. Act. Feb. 28, 1809. Louisiana *vs.* Mississippi. Miss. Doc. No. 3. Filed June 1st 1904. Wm. D. Ballard commissioner Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

Sections 1 and 2 of Chapter 100, Vol. 3, United States Statutes at Large.

Chap. C.—An Act for Adjusting the Claims to Land and Establishing Land Offices in the Districts East of the Island of New Orleans (*a*).

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That all the claims to land, founded on complete grants from the Spanish government, reported to the Secretary of the Treasury, by the commissioners from the districts east and west of Pearl river, appointed under the authority of an act, entitled, "An act for ascertaining the titles and claims to lands in that part of Louisiana which lies east of the River Mississippi and island of New Orleans," which are contained in the several reports of the commissioners, and which are, in the opinion of the commissioners, valid, agreeably to the laws, usages, and customs, of the said government, be, and the same are hereby, recognized as valid and complete titles against any claim on the part of the United States, or right derived from the United States: And that all claims founded on British grants, contained in the said reports, which have been sold and conveyed, according to the provisions of the treaty of peace, between Great Britain and Spain, of the third of September, one thousand seven hundred and eighty-three, by which that part of Louisiana, lying east of the island of Orleans, was ceded to Spain, under the denomination of West Florida, or which were settled and cultivated by the person having the legal title therein, at the date of said treaty, are recognized as valid and complete titles, against any claim on the part of the United States, or right derived from the United States.

SEC. 2. And be it further enacted, That all claims reported as aforesaid, and contained in the several reports of the said commissioners, founded on any order of survey, requette, permission to settle, or any written evidence of claim, derived from the Spanish au-

rities, which ought, in the opinion of the commissioners, to be firmed, and which by the said reports appear to be derived from Spanish government, before the twentieth day of December, one usand eight hundred and three, and the land claimed to have n cultivated and inhabited, on or before that day, shall be con-ed in the same manner as if the title had been completed: Pro-d, That in all such claims, where the plat and certificate of sur-, made prior to the fifteenth day of April, one thousand eight dred and thirteen, under the authority of the Spanish govern-t, in pursuance of such claim, has not been filed with the said missioners, such claim shall not be confirmed to any person for e than twelve hundred and eighty acres; and that for all the r claims to land comprised in the reports aforesaid, and which ht, in the opinion of the commissioners, to be confirmed; the mant to such lands shall be entitled to a grant therefor as a do-on: Provided, That such grant, as a donation, shall not be made ny one person for more than twelve hundred and eighty acres; ch confirmation of the said incomplete titles and grants of dona-s, hereby provided to be made, shall amount only to a relin-hment forever, on the part of the United States, of any claim tever to the tract of land so confirmed or granted:

nd provided, also, That no such claim shall be confirmed to any on to whom the title to any tract of land shall have been recog-d under the preceding provisions.

ndorsed:) Louisiana *vs.* Mississippi Miss. No. 4. Filed June 1st, Wm. D. Bullard, commissioner. Office Supreme Court U. S. Mar. 13, 1905 James H. McKenney, clerk.

Miss. Document No. 5.

ct concerning an act to enable the President of the United States, der certain contingencies, to take possession of the country lying st of the River Perdido and south of the State of Georgia and the ssissippi Territory, and for other purposes, and the declaration companying the same.

it enacted by the Senate and House of Representatives of the ed States of America, in Congress assembled, That this act and ct passed during the present session of Congress, entitled "An enable the President of the United States, under certain con-ncies, to take possession of the country lying east of the River do, and south of the State of Georgia and the Mississippi Terri-and for other purposes," and the declaration accompanying the , be not printed or published, until the end of the next session ngress, unless directed by the President of the United States, aw or usage to the contrary notwithstanding.

proved March 3, 1811.

(Page 472, vol. 3, United States — at Large.)

(Endorsed:) Original act of M'ch 3rd, 1811. Louisiana *vs.* Mississippi. Miss. Doc. 5. Filed June 1, '04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2040 MISS. DOCUMENT NO. 6.

An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the River Perdido and south of the State of Georgia and the Mississippi Territory, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States, be and he is hereby, authorized to take possession of, and occupy, all or any part of the territory lying east of the River Perdido, and south of the State of Georgia and the Mississippi Territory, in case an arrangement has been, or shall be, made with the local authority of the said Territory, for delivering up the possession of the same, or any part thereof, to the United States, or in the event of an attempt to occupy the said Territory, or any part thereof, by any foreign government; and he may, for the purpose of taking possession, and occupying the Territory aforesaid, and in order to maintain therein the authority of the United States, employ any part of the Army and Navy of the United States which he may deem necessary.

SEC. 2. And be it further enacted, That one hundred thousand dollars be appropriated for defraying such expenses as the President may deem necessary for obtaining possession as aforesaid, and the security of the said territory, to be applied under the direction of the President, out of any moneys in the Treasury not otherwise appropriated.

SEC. 3. And be it further enacted, That in case possession of the Territory aforesaid shall be obtained by the United States, as aforesaid, that until other provision be made by Congress, the President be, and he is hereby authorized to establish, within the Territory aforesaid, a temporary government, and the military, civil and judicial, powers thereof shall be vested in such person and persons, and be exercised in such manner as he may direct, for the protection and maintenance of the inhabitants of the said Territory in the full enjoyment of their liberty, property, and religion. Approved January 15, 1811.

(Page 471 vol. 2, United States Statutes at Large.)

(Endorsed:) (Original.) Act of Jan. 15, 1811. Louisiana *vs.* Mississippi. Miss. Doc. No. 6. Filed June 1, 1904. Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

1 MISS. DOCUMENT NO. 7.

olution of the Congress of the United States, Approved January 5, 1811, Relative to the Occupation of the Floridas by the United tates of America.

Resolution.

aking into view the peculiar situation of Spain, and of her Ameri- provinces; and considering the influence which the destiny of territory adjoining the southern border of the United States may e upon their security, tranquil-ity, and commerce:

herefore, resolved by the Senate and House of Representatives he United States of America, in Congress assembled, That the ted States, under the peculiar circumstances of the existing crisis, ot without serious inquietude, see any part of the said territory, into the hands of any foreign power; and that a due regard to r own safety compels them to provide, under certain contingen-, for the temporary occupation of the said territory; they at the e time, declare that the said territory shall, in their hands, remain ject to future negotiation.

pproved January 15, 1811.

Page 471, volume 2, United States Statutes at Large.

Endorsed:) (Original.) Resolution Jan. 15, 1811. Louisiana *vs.* sissippi Miss. Doc. No. 7 Filed June 1st 1904 Wm. D. Bullard missioner. Office Supreme Court U. S. Filed Mar. 13 1905. es H. McKenney, clerk.

2 MISS. DOCUMENT NO. 8.

t Paragraph of Section 1, Ch. 50, of Vol. 2, United States Statutes at Large.

p. L.—An Act for the Admission of the State of Louisiana into e Union and to Extend the Laws of the United States to the id State. (*a*)

Whereas, the representatives of the people of all that part of the itory or country ceded, under the name of "Louisiana," by the ty made at Paris, on the thirtieth day of April, one thousand t hundred and three, between the United States and France, ained within the following limits, that is to say: Beginning at mouth of the River Sabine; thence by a line to be drawn along middle of said river, including all islands to the thirty second ree of latitude; thence, due north, to the northernmost part of thirty-third degree of north latitude; thence, along said parallel atitude, to the River Mississippi; thence, down the said river, to

the River Iberville; and from thence, along the middle of the said river, and Lakes Maurepas and Pontchartrain, to the gulf of Mexico; thence, bounded by the said Gulf, to the place of beginning, including all islands within three leagues of the coast; did, on the twenty-second day of January, one thousand eight hundred and twelve, form for themselves a constitution and State government, and give to the said State the name of the State of Louisiana, in pursuance of an act of Congress, entitled "An act to enable the people of the territory of Orleans to form a constitution and State government, and for the admission of the said State into the Union, on an equal footing with the original States, and for other purposes:" And the said constitution having been transmitted to Congress, and by them being hereby approved.

Approved April 8, 1812.

(Endorsed:) (Original) Admitting Louisiana Louisiana *vs.* Mississippi Miss. Doc. No. 8 Filed June 1st 1904 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar 13 1905 James H. McKenney, clerk.

2043 MISS. DOCUMENT No. 9.

Chapter 57 of Volume 2 of United States Statutes at Large.

Chap. LVII.—An Act to Enlarge the Limits of the State of Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in case the legislature of the State of Louisiana shall consent thereto, all that tract of country comprehended within the following bounds to wit: Beginning at the junction of the Iberville, with the River Mississippi; thence, along the middle of the Iberville, the River Amite, and of the Lakes Maurepas and Pontchartrain to the eastern mouth of the Pearl river; thence up the eastern branch of Pearl river to the thirty-first degree of north latitude; thence along the said degree of latitude to the River Mississippi; thence down the said river to the place of beginning, shall become and form a part of the said State of Louisiana, and be subject to the constitution and laws thereof, in the same manner, and for all intents and purposes as if it had been included within the original boundaries of said State.

SEC. 2. And be it further enacted, That it shall be incumbent upon the legislature of the State of Louisiana, in case they consent to the incirpiration of the territory aforesaid, within their limits, at their first session, to make provision by law for the representation of the said territory in the legislature of the State, upon the principles of the constitution, and for the securing to the people of the said territory, equal rights, privileges, benefits and advantages with those enjoyed by the people of the other parts of the State; which law

ll be liable to revision, modification and amendment by Congress, l also in the manner provided for the amendment of the State stitution, but shall not be liable to change or amendment by the islature of the State.
Approved April 14, 1812.

Endorsed:) (Original.) Enlarging Louisiana. Louisiana *vs.* Mis-ippi. Miss. Doc. No. 9. Filed June 1st 1904. Wm. D. Bullard, mmissioner. Office Supreme Court U. S. Filed Mar. 13 1905, nes H. McKenney, clerk.

4 MISS. DOCUMENT No. 10.

Chapter 84 of Vol. 2, United States Statutes at Large.

p. LXXXIV.—An Act to Enlarge the Boundaries of the Mississippi Territory.

e it enacted by the Senate and House of Representatives of the ted States of America in Congress assembled, That all that por- of territory lying east of Pearl river, west of the Perdido, and h of the thirty-first degree of latitude, be, and the same is hereby exed to the Mississippi Territory; to be governed by the laws in force therein, or which may hereafter be enacted, and the s and ordinances of the United States, relative thereto, in like nner as if the same had originally formed a part of said Territory; until otherwise provided by law, the inhabitants of the said dis- hereby annexed to the Mississippi Territory, shall be entitled to representative in the General Assembly thereof.
pproved, May 14, 1812.

Endorsed:) Original. Act of May 14, 1812. Louisiana *vs.* Mis-ippi. Miss. Doc. No. 10 Filed June 1st, 1904, Wm. D. Bullard, mmissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, es H. McKenney, clerk.

5 MISS. DOCUMENT No. 11.

Act Authorizing the President of the United States to Take Possession of a Tract of Country Lying South of the Mississippi Territory and West of the River Perdido.

e it enacted by the Senate and House of Representatives of the ed States of America, in Congress assembled, That the Presi- be, and he is hereby, authorized to occupy and hold all that of country called West Florida, which lies west of the River ido, not now in possession of the United States.

SEC. 2. And be it further enacted, That, for the purpose of occupying and holding the country aforesaid, and of affording protection to the inhabitants thereof, under the authority of the United States, the President may employ such parts of the military and naval force of the United States as he may deem necessary.

SEC. 3. And be it further enacted, That for defraying the necessary expenses, twenty thousand dollars are hereby appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated, and to be applied for the purposes aforesaid, under the direction of the President.

Approved February 12, 1813.

Page 472, vol. 3, United States Statutes at Large.

(Endorsed:) (Original) Act Feb. 12, 1813. Louisiana *vs.* Mississippi Miss. Doc. No. 11. Filed June 1st /04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

2046 MISS. DOCUMENT No. 12.

Sections 1 and 2 of Chapter 23 of Vol. 3 of United States Statutes at Large.

Chap. XXIII.—An act to enable the people of the western part of the Mississippi territory to form a constitution and State government and for the admission of such State into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the inhabitants of the western part of the Mississippi territory be, and they hereby are, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon the same footing with the original States, in all respects whatever.

SEC. 2. And be it further enacted, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning on the River Mississippi at the point where the southern boundary line of the State of Tennessee strikes the same, thence east along the said boundary line to the Tennessee river, thence up the same to the mouth of Bear creek, thence by a direct line to the north-west corner of the county of Washington, thence due south to the gulf of Mexico, thence westwardly including all the islands within six leagues of the shore, to the most eastern junction of Pearl river with Lake Borgne, thence up said river to the thirty-first degree of north latitude, thence, west along the said degree of latitude to the Mississippi river, thence up the same to the beginning.

(Endorsed:) (Original) Admitting Mississippi. Louisiana *vs.* Mississippi Miss. Doc. 12 Filed June 1/04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2047 MISS. DOCUMENT NO. 13.

Resolutions.

I. Resolution for the Admission of the State of Mississippi into the Union.

Whereas, in pursuance of an act of Congress, passed on the first day of March, one thousand eight hundred and seventeen, entitled "An act to enable the people of the western part of the Mississippi territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," the people of the said territory did, on the fifteenth day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government so formed, is republican, and in conformity to the principles of the articles of compact between the original States and the people and States in the territory north-west of the River Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty seven—

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the State of Mississippi shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

Approved, December 10, 1817.

(Page 473, vol. 2 United States Statutes at Large.)

(Endorsed:) (Original.) Resolution Dec. 10, 1817. Louisiana *vs.* Mississippi Doc. (Miss.) No. 13. Filed June 1st/04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

2048 MISS. DOCUMENT NO. 14.

Copy of One of the Spanish Grants Annulled by the Treaty Between the United States and Spain of February, 1819.

Don Antonio Porcel, Knight Pensioner of the Royal and Distinguished Order of Charles 3rd, of the Council of State, and Secretary of State of Dispatch of the Ultramarine Government, &c.

I certify that, under date of the sixth of February, one thousand eight hundred and eighteen, royal letters patent of the same tenor were sent by the late council of the Indies to the governor captain

general of the island of Cuba and its dependencies, to the intendent of the army and royal business of the Havana and its district, and to the governor of the Floridas, that each should do his utmost in his particular department to give effect to the grant made to Brigadier the Count Punonrostro, of various lands situated in West Florida, of the following tenor:

The King.

My governor and captain general of the island of Cuba and its dependencies: The Brigadier Count of Punonrostro submitted to me, on the third of November last what follows: "Sire: The Brigadier Count of Punonrostro, grandee of Spain of the first class, and your gentleman of the bed chamber in actual attendance, &c., &c., throws himself at Your Majesty's royal feet with the most profound respect, and submits to Your Majesty: That, prompted by the desire of promoting, by all possible means, the improvement of the extensive waste and unsettled lands possessed by Your Majesty in the America, which, by their fertility, offer the greatest advantages, not only to your memorialist, but to the State, provided due effect, as is hoped, be given to the noble project formed by Your Majesty's memorialist, of converting a small portion of those deserts into the abode of peaceable Christians and industrious inhabitants, who will increase the population of your kingdoms, promote agriculture and commerce, and thereby add immensely to your royal revenues. This enterprise should be conducted by a person who, with a knowledge of the country, would combine the intelligence necessary for comparing the progress made by other nations in similar situations, and particularly by the United States, which, within a very recent period, have advanced their power to an extraordinary height, and especially in the instance of the Mobile country, adjoining Florida, which, in the last six years, has received such an influx of emigrants, as to be converted from a desert waste into a rich commercial province, highly improved and peopled with more than three hundred thousand souls. A similar change would be effected in Florida within eighteen or twenty years, by the adoption of judicious arrangements, and by those exertions which Your Majesty's memorialist proposes to employ for the promotion of his personal interest, and consequently that of the State. Relying on the merits of the case, and the lively interest felt by Your Majesty in the national prosperity, and in the services and sacrifices of Your Majesty's memorialist, he humbly requests Your Majesty that, taking them into consideration, you would be graciously pleased to grant and cede to him, in full right and property, and the mode and manner required by law, all the waste lands, not heretofore ceded in Florida, lying between the River Periddo, westward of the gulf of Mexico, and the Rivers Amaruja and Saint Johns, from Popa to the point where it empties into the ocean, for the eastern limit; and, for the northern, the boundary line of the United States; and, to the south, by the

alf of Mexico, including the desert islands on the coast. He therere humbly prays, in consideration of the premises, and the unquestionable advantages to be derived by the nation, Your 949 Majesty will be pleased to grant this his petition; and, thereupon, direct the necessary orders to be given to the local aucorities to afford him all due aid and protection, as well in designating the territory referred to, as in giving full effect to the whole nterprise. All which he hopes from the munificence of Your ajesty."

Having taken the premises into consideration, and bearing in ind the distinguished merits of the memorialist, and his signal al for my royal services, as well as the benefits to be derived by e State from an increase of population in the countries, the cession hereof he has solicited, I have judged fit to grant him the same, so far as is conformable to the laws of these my kingdoms, and make it known to my council of the Indies, for its due execution, a royal order of the seventeenth of December, in the year aforeentioned; wherefore, I charge and command you, by this, my yal cedula, with due observance of the laws to such cases pertaing, to give full and due effect to the said cession, taking all requie measures for its accomplishment, without injury to any third rty, and, to the end, that the said Count Punonrostro may forthth carry his plans into execution, in conformity with my benefint desires in favor of the agricultural and commerce of the said rritories, which require a population proportionate to the fertility the soil, and the defence and security of the coasts, he giving gular accounts of his proceedings, for such is my will; and that e note be taken of the present cedula in the office of the acuntant general of the Indies. Dated at the palace, the sixth of bruary, one thousand eight hundred and eighteen.

I, THE KING.

By command of the king our lord:

ESTEVAN VAREA.

And I confirm this exemplification, at Madrid, the fifteenth of tober, one thousand eight hundred and twenty.

(Signed) ANTONIO PORCEL.

(Endorsed:) Original copy of Spanish grant 1819 Louisiana *vs.* ssissippi Miss. Doc. No. 14. Filed June 1/04 Wm. D. Bullard, mmissioner. Office Supreme Court U. S. Filed Mar. 13 1905 mes H. McKenney, clerk.

50 MISS. DOCUMENT NO. 15.

Article II of treaty of 1819 between the United States and Spain itled:

Treaty of amity, settlement, and limits between the United States America and His Catholic Majesty, concluded at Washington,

February 22, 1819; ratification advised by Senate February 24, 1819; ratified by President; ratified by the King of Spain October 24, 1820; ratification again advised by Senate February 19, 1821; ratified by President February 22, 1821; ratifications exchanged at Washington February 22, 1821; proclaimed February 22, 1821.

Treaty of amit*h*, settlement, and limits between the United States of America and His Catholic Majesty.

Article II.

His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belonged to him, situated to the eastward of the Mississippi, known by the name of East and West Florida. The adjacent islands dependent on said provinces, all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissaries or officers of the United States, duly authorized to receive them.

Signed at Washington on the 22 day of February, 1819.

JOHN QUINCY ADAMS.
LUIS DE ONIS.

(Endorsed:) (Original) United States and Spain, 1819. Louisiana *vs.* Mississippi. Doc. No. 15. Filed June 1/04. Wm. D. Ballard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2051 Miss. Document No. 16.

Sections 1 and 2 of Chapter 39, Vol. 2, United States Statutes at Large.

Chap. XXXIX.—An act for carrying into execution the treaty between the United States and Spain, concluded at Washington on the twenty-second day of Februaary, one thousand eight hundred and nineteen (*a*).

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States, be, and he is hereby, authorized to take possession of, and occupy, the Territories of East and West Florida, and the appendages and appurtenances thereof: and to remove and transport the officers and soldiers of the King of Spain, being there, to the Havanna, agreeably to the stipulations of the treaty between the United States and Spain, concluded at Washington, on the twenty-second day of February, in the year one thousand eight hun-

red and nineteen, providing for the cession of said Territories to he United States; and he may, for these purposes, and in order to naintain in said Territories the authority of the United States, emloy any part of the Army and Navy of the United States, and the ilitia of any State or Territory, which he may deem necessary.

SEC. 2. And be it further enacted, That until the end of the first ession of the next Congress, unless provision for the temporary govrnment of said Territories be sooner made by Congress, all the ilitary, civil, and judicial, powers exercised by the officers of the xisting government of the same Territories, shall be vested in such erson and persons, and shall be exercised in such manner, as the resident of the United States shall direct, for the maintaining the habitants of said Territories in the free enjoyment of their liberty, roperty, and religion; and the laws of the United States relating the revenue and its collection, subject to the modification stiplated by the fifteenth article of the said treaty, in favour of Spanish essels and their cargoes, and the laws relating to the importation persons of colour, shall be extended to the said Territories. And e President of the United States shall be, and he is hereby, auorized within the term aforesaid, to establish such districts for the llection of the revenue, and during the recess of Congress, to apoint such officers, whose commissions shall expire at the end of the xt session of Congress, to enforce the said laws, as to him shall em expedient.

Approved March 3, 1821.

(Endorsed:) (Original.) Act Mar. 3rd, 1821. Louisiana *vs.* Missippi. Miss. Doc. No. 16. Filed June 1 1904. Wm. D. Bullard, mmissioner. Office Supreme Court U. S. Filed Mar. 13 1905. mes H. McKenney, clerk.

52 MISS. DOCUMENT No. 17.

FOSTER AND ELAM
vs.
DAVID NEILSON.

2nd. Peters, United States Report, Beginning at Page 300.

53 FOSTER AND ELAM
vs.
DAVID NEILSON.

2nd. Peters, United States Report, Beginning at Page 300.

This case presents this very intricate, and at one time very intering question: To whom did the country between Iberville and Perdido rightfully belong, when the title now asserted by the intiffs was acquired.

This question has been repeatedly discussed with great talent and research, by the Government of the United States and that of Spain. The United States have perseveringly and earnestly insisted, that by the treaty of St. Ildefonso, made on the 1st of October in the year 1800, Spain ceded the disputed territory as part of Louisiana to France; and that France, by the treaty of Paris, signed on the 30th of April 1803, and ratified on the 21st of October in the same year, ceded it to the United States. Spain has with equal perseverance and earnestness maintained, that her cession to France comprehended that territory only which was at that time denominated Louisiana, consisting of the island of New Orleans, and the country she received from France west of the Mississippi.

Without tracing the title of France to its origin, we may state with confidence that at the commencement of the war of 1756, she was the undisputed possessor of the province of Louisiana, lying on both sides the Mississippi, and extending eastward beyond the bay of Mobile. Spain was at the same time in possession of Florida; and it is understood that the River Perdido separated the two provinces from each other.

Such was the state of possession and title at the treaty of Paris, concluded between Great Britain, France and Spain, on the 10th day of February 1763. By that treaty France ceded to Great Britain the river and port of Mobile, and all her possessions on the left side of the River Mississippi, except the town of New Orleans and the island on which it is situated; and by the same treaty Spain ceded Florida to Great Britain. The residue of Louisiana was ceded by France to Spain, in a separate and secret treaty between those two powers. The King of Great Britain being thus the acknowledged sovereign of the whole country east of the Mississippi, except the island of New Orleans, divided his late acquisition in the south into two provinces, East and West Florida. The latter comprehended so much of the country ceded by France as lay south of the 31st degree of north latitude, and a part of that ceded by Spain.

By the treaty of peace between Great Britain and Spain, signed at Versailles on the 3d of September 1783, Great Britain ceded East and West Florida to Spain. And those provinces continued to be known and governed by those names, as long as they remained in the possession and under the dominion of His Catholic Majesty.

On the 1st of October in the year 1800, a secret treaty was concluded between France and Spain at St. Ildefonso, the third article of which is in these words: "His Catholic Majesty promises and engages on his part to retrocede to the French Republic, six months after the full and entire execution of the conditions and stipulations relative to His Royal Highness the Duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and the other States."

The treaty of the 30th of April 1803, by which the United States

quired Louisiana, after reciting this article, proceeds to state that
he first consul of the French Republic doth hereby cede to the
United States, in the name of the French Republic, forever and
64 in full sovereignty, the said territory with all its rights and
appurtenances as fully and in the same manner as they have
en acquired by the French Republic, in virtue of the above men-
ned treaty concluded with His Catholic Majesty." The 4th article
pulates that "there shall be sent by the government of France a
mmissary to Louisiana, to the end that he do every act necessary,
well to receive from the officers of His Catholic Majesty the said
untry, and its dependencies, in the name of the French Republic,
it has not been already done, as to transmit it in the name of the
ench Republic to the commissary or agent of the United States."
On the 30th of November 1803, Peter Clement Laussatt, colonial
fect and commissioner of the French Republic, authorized, by full
wers dated the 6th, of June 1803, to receive the surrender of the
ovince of Louisiana, presented those powers to Don Manuel Sal-
lo, governor of Louisiana and West Florida, and to the Marquis
Casa Calvo, commissioners on the part of Spain, together with full
wers to them from His Catholic Majesty to make the surrender.
These full powers were dated at Barcelona the 15th of October
02. The act of surrender declares that in virtue of these full
wers, the Spanish commissioners, Don Manuel Salcedo and the
rquis de Casa Calvo, "put from this moment the said French
mmissioner, the citizen Laussatt, in possession of the colony of
uisiana and of its dependencies, as also of the town and island of
w Orleans, in the same extent that it now has, that it had in the
nds of France when she ceded it to my royal crown, and such as
ught to be after the treaties which have successively taken place
ween my States and those of other powers."
Previous to the arrival of the French commissioner, the governor
the provinces of Louisiana and West Florida, and the Marquis de
a Calvo, had issued their proclamation, dated the 18th of May
03; in which they say, "His Majesty having before his eyes the
igations imposed by the treaties, and desirous of avoiding any
putes that might arise, has designed to resolve that the delivery
the colony and island New Orleans, which is to be made to the
neral of division Victor, or such other officer as may be legally
thorised by the government of the French Republic, shall be ex-
ted on the same terms that France ceded it to His Majesty; in
ue of which, the limits of both shores of the River St. Louis of
sissippi, shall remain as they were irrevocably fixed by the 7th
cle of the definitive treaty of peace, concluded at Paris the 10th of
ruary 1763, according to which the settlements from the River
shac or Iberville, to the line which separates the American ter-
ry from the dominions of the king, remain in possession of Spain
annexed to West Florida."
On the 21st of October 1803, Congress passed an act to enable the
sident to take possession of the territory ceded by France to the

United States: in pursuance of which commissioners were appointed to whom Monsieur Laussatt, the commissioner of the French Republic, surrendered New Orleans and the province of Louisiana on the 20th, of December 1803.

The surrender was made in general terms; but no actual possession was taken of the territory lying east of New Orleans.

The Government of the United States, however, soon manifested the opinion that the whole country originally held by France, and belonging to Spain when the treaty of St. Ildefonso was concluded, was by that treaty retroceded to France.

On the 24th of February 1804, Congress passed an act for laying and collecting duties within the ceded territories, which authorised the President, whenever he should deem it expedient, to erect the shores &c. of the bay and river Mobile, and of the other rivers, creeks &c. emptying into the gulph of Mexico east of the said River
2055 Mobile, and west thereof to the Pascagoula inclusive, into a separate district, and to establish a port of entry and delivery therein. The port established in pursuance of this act was at Fort Stoddert, within the acknowledged jurisdiction of the United States; and this circumstance appears to have been offered as a sufficient answer to the subsequent remonstrances of Spain against the measure. It must be considered, not as acting on the territory, but as indicating the American exposition of the treaty, and exhibiting the claim its Government intended to assert.

In the same session, on the 26th of March 1804, Congress passed an act creating Louisiana into two territories. This declares that the country ceded by France to the United States south of the Mississippi territory, and south of an east and west line, to commence on the Mississippi river at the 33d degree of north latitude and run west to the western boundary of the cession, shall constitute a Territory under the name of the Territory of Orleans. Now the Mississippi territory extended to the 31st degree of north latitude and the country south of that territory was necessarily the country which Spain held as West Florida; but still its constituting a part of the Territory of Orleans depends on the fact that it was a part of the country ceded by France to the United States. No practical application of the laws of the United States to this part of the territory was attempted, nor could be made, while the country remained in the actual possession of the foreign power.

The 14th section enacts "that all grants to lands within the territory ceded by the French Republic to the United States by the treaty of the 30th of April 1803, the title whereof was at the date of the treaty of St. Ildefonso in the crown, government, or nation of Spain, and every act and proceeding subsequent thereto of whatsoever nature towards the obtaining any grant, title or claim to such land, and under whatsoever authority transacted or pretended, be, and the same are hereby declared to be, and to have been from the beginning, null, void, and of no effect in law or equity." A proviso excepts the titles of actual settlers acquired before the 20th of

December 1803, from the operation of this section it was obviously intended to act on all grants made by Spain after her retrocession of Louisiana to France, and without deciding on the extent of that retrocession to put the titles which might be thus acquired through the whole territory, whatever might be the extent, completely under the control of the American Government.

The President was authorised to appoint registers or recorders of lands acquired under the Spanish and French government, and boards of commissioners who should receive all claims for lands, and hear and determine in a summary way all matters respecting such claims. Their proceedings were to be recorded to the Secretary of the Treasury, to be laid before Congress for the final decision of that body.

Previous to the acquisition of Louisiana, the ministers of the United States had been instructed to endeavor to obtain the Floridas from Spain. After that acquisition, this object was still persued, and the friendly aid of the French government towards this attainment was requested. On the suggestion of Mr. Talle-rand that the time was unfavorable, the design was suspended. The Government of the United States however soon resumed its purpose; and the settlement of the boundaries of Louisiana was blended with the purchase of the Floridas and the adjustment of heavy claims made by the United States for American property, condemned in the courts of Spain during the war which was terminated by the treaty of Amiens.

On his way to Madrid Mr. Monroe, who was empowered in
396 conjunction with Mr. Pinckney, the American minister at the court of His Catholic Majesty to conduct the negotiations passed through Paris; and addressed a letter to the minister of exterior relations, in which he detailed the objects of his mission, and his views respecting the boundaries of Louisiana. In his answer to this letter, dated the 21st of December 1804, Mr. Talle-rand declared, in decided terms, that by the treaty of St. Ildefonso, Spain retroceded to France no part of the territory east of the Iberville which had been held and known as West Florida; and that in all the negotiations between the two governments, Spain had constantly refused to cede any part of the Floridas, even from the Mississippi to the Mobile. He added that he was authorized by His Imperial Majesty to say, that at the beginning of the year 1802, General Bournonville had been charged to open a new negotiation with Spain for the acquisition of the Floridas; but his project had not been followed by a treaty.

Had France and Spain agreed upon the boundary of the retroceded territory before Louisiana was acquired by the United States, the agreement would undoubtedly have ascertained its limits. But the declarations of France made after parting with the province can not be admitted as conclusive.

In questions of this character, political considerations have too much influence over the conduct of nations, to permit their declara-

tions to decide the course of an independent government in a matter vitally interesting to itself.

Soon after the arrival of Mr. Monroe at his place of designation the negotiations commenced at Aranjuez. Every word in that article of the treaty of St. Idlefonso which ceded Louisiana to France, was scanned by the ministers on both sides with all the critical acumen which talents and zeal could bring into their service. Every argument drawn from collateral circumstances, connected with the subject, which could be supposed to elucidate it, was exhausted. No advance towards an arrangement was made, and the negotiation terminated, leaving each party firm in his original opinion and purpose. Each persevered in maintaining the construction with which he had commenced. The discussion has since been resumed between the two nations with as much ability and with as little success. The question has been again argued at this bar, with the same talent and research which it has uniformly called forth. Every topic which relates to it has been completely exhausted; and the court by reasoning on the subject could only repeat what is familiar to all.

We shall say only, that the language of the article may admit of either construction, and it is scarcely possible to consider the arguments on either side, without believing that they proceed from a conviction of their truth. The phrase on which the controversy mainly depends, that Spain retrocedes Louisiana with the same extent that it had when France possessed it, might so readily have been expressed in plain language, that it is difficult to resist the persuasion that the ambiguity was intentional. Had Louisiana been retroceded with the same extent that it had when France ceded it to Spain, or with the same extent that it had before the cession of any part of it to England, no controversy respecting its limits could have arisen. Had the parties concurred in their intention, a plain mode of expressing that intention would have presented itself to them. But Spain has always manifested infinite repugnance to the surrender of territory, and was probably unwilling to give back more than she had received. The introduction of ambiguous phrases into the treaty, which power might afterwards construe according to circumstances, was a measure which the strong and politic might not be disinclined to employ.

2057 However this may be, it is, we think, incontestably, the American construction of the article, if not entirely free from question, is supported by arguments of great strength which can not be easily confuted.

In a controversy between two nations concerning national boundary, it is scarcely possible that the courts of either should refuse to abide by the measures adopted by its own government. There being no common tribunal to decide between them, each determines for itself on its own rights, and if they cannot adjust their differences peaceably the right remains with the strongest. The judiciary is not that department of the government, to which the assertion of its interests against foreign powers is confided; and its duty commonly

o decide upon individual rights, according to those principles
ch the political departments of nations have established. If the
rse of the nation has been a plain one, its courts would hesitate
ronounce it erroneous.

Ve think then, however individual judges might construe the
ty of St. Idelfonso, it is the province of the court to conform its
sions to the will of the legislature, if that will has been clearly
ressed.

he convulsed state of European Spain affected her influence over
colonies; and a degree of disorder prevailed in the Floridas, at
ch the United States could not look with indifference. In Octo-
1810, the President issued his proclamation, directing the gov-
or of the Orleans territory to take possession of the country as far
as the Perdido, and to hold it for the United States. This
sure was avowedly intended as an assertion of the title of the
ted States; but as an assertion, which was rendered necessary in
r to avoid evil which might contravene the wishes of both par-
, and which would still leave the territory "a subject of fair and
ndly negotiation and adjustment."

n April 1812, Congress passed "An act to enlarge the limits of the
te of Louisiana." This act describes lines which comprehend the
l in controversy, and declares that the country included within
m shall become and form a part of the State of Louisiana.

n May of the same year another act was passed, annexing the
due of the country west of the Perdido to the Mississippi terri-
y.

nd in February 1813, the President was authorized to occupy
hold all that tract of country called West Florida, which lies
t of the River Perdido, not now in possession of the United States.

n the third of March 1817, Congress erected that part of Florida
ich had been annexed to the Mississippi territory, into a separate
itory, called Alabama.

he powers of government were extended to, and exercised in
se parts of West Florida which composed a part of Louisiana and
sissippi, respectively; and a separate government was erected in
bama. U. S. L. c. 4, 409.

n March 1819, "Congress passed an act to enable the people of
bama to form a constitution and State government." And in
cember 1819, she was admitted into the Union, and declared one
he United States of America. The treaty of amity, settlement
l limits, between the United States and Spain, was signed at
shington on the 22nd day of February 1819, but it was not rati-
l by Spain till the 24th day of October 1820; nor by the United
tes until the 22d day of February 1821. So that Alabama was
nitted into the Union as an independent State, in virtue of the
e acquired by the United States to her territory under the treaty
April 1803.

After these acts of sovereign power over the territory in
8 dispute, asserting the American construction of the treaty by
which the government claims it, to maintain the opposite

construction in its own courts would certainly be an anomaly in th history and practice of nations. If those departments which ar entrusted with the foreign intercourse of the nation, which asse and maintain its interests against foreign powers, have unequiv cally asserted its rights of dominion over a country of which it is i possession, and which it claims under a treaty; if the legislatu has acted on the construction thus asserted, it is not in its own cour that this construction is to be denied. A question like this respec ing the boundaries of nations, is, as has been truly said, more political than a legal question; and in its discussion, the courts every country must respect the pronounced will of the legislatur Had this suit been instituted immediately after the passage of th act for extending the bounds of Louisiana, could the Spanish co struction of the treaty of St. Ildefonso have been maintained Could the plaintiff have insisted that the land did not lie in Louis ana, but in West Florida; that the occupation of the country by th United States was wrongful; and that his title under a Spanis grant must prevail, because the acts of Congress on the subje were founded on a misconstruction of the treaty? If it be sai that this statement does not present the question fairly, because plaintiff admits the authority of the court, let the parties be change If the Spanish grantee had obtained possession so as to be the d fendant, would a court of the United States maintain his title und a Spanish grant, made subsequent to the acquisition of Louisian singly on the principle that the Spanish construction of the treat of St. Ildefonso was right, and the American construction wrong Such a decision would, we think, have subverted those principl which govern the relations between the legislative and judicial d partments, and mark the limits of each.

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. No. 17. File June 1, /04 Wm. D. Bullard commissioner Office Supreme Cou U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2059 MISS. DOCUMENT No. 18.

Boundaries of Hancock County, Miss. Section 44, Code 1880, an Section 368, Code of 1892.

§ 44. Hancock county (established December 14, 1812), is bounde by beginning at the point in the middle of East Pearl river, whe the line between townships two and three, south in range eightee west, intersects said river; thence due east, along said township lin to the line between ranges fourteen and thirteen west; thence du south, along said range line, to the middle of the bay of St. Louis thence along the middle of said bay of St. Louis, southwardly to i entrance; thence due south to the southern boundary of the Sta of Mississippi, in the gulf of Mexico; thence westwardly, with sa

boundary, including all the islands within six leagues of the shores of the gulf of Mexico and Lake Borgne, to the most eastern junction of Pearl river and Lake Borgne, and to the east mouth of Pearl river; thence up said river, by the middle thereof, to the point of beginning.

368 (44). Hancock county (established December 14, 1812) is bounded by beginning at the point in the middle of East Pearl river, where the line between townships four and five, south, in range eighteen, west, intersects said river; thence due east along said township line to the line between ranges fourteen and thirteen, west; thence due south along said range line to the middle of the bay of St. Louis; thence along the middle of said bay of St. Louis southwardly to its entrance; thence due south to the southern boundary of the State of Mississippi in the gulf of Mexico; thence westwardly with said boundary, including all the islands within six leagues of the shores of the gulf of Mexico and Lake Borgne, to the most eastern junction of Pearl river and Lake Borgne, and to the east mouth of Pearl river; thence up said river by the middle thereof to the point of beginning. County site, Bay St. Louis.

(Endorsed:) 1812 (Original) Hancock county Louisiana *vs.* Mississippi. Miss. Doc. 18 Filed June 1/04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2060 MISS. DOCUMENT No. 19.

Boundaries of Jackson County, Miss. Section 50, Code of 1880, and Section 374, Code 1892.

§ 50. Jackson county. (established December 14th 1812), is bounded by beginning at the northwest corner of section three, township two, south of range nine, west; thence east, on the line between townships one and two, south, to the State boundary between Alabama and Mississippi; thence southerly, on said boundary, to the gulf of Mexico; thence westwardly, with said boundary, to the centre of range nine, west; thence north, with the section lines, to the beginning.

374 (50). Jackson county (established December 14, 1812) is bounded by beginning at the north-west corner of section three, township two, south of range nine, west; thence east on the line between townships one and two, south, to the State boundary between Alabama and Mississippi; thence southerly on said boundary to the gulf of Mexico; thence westwardly with said boundary to the center of range nine, west; thence north with the section lines to the beginning. County site, Scranton.

(Endorsed:) 1812 (Original) Jackson county. Louisiana *vs.* Mississippi. Miss. Doc. No. 19. Filed June 1/04. Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

Boundaries of Harrison County Miss. Section 45, Code 1880, and Section 369, Code of 1892.

§ 45. Harrison county (established February 5th, 1841), is bounded by beginning at the northwest corner of township two, south, in range thirteen, west; thence extending due east, along the line between townships one and two, to the line between sections three and four, township two, range nine, west; thence due south, through the middle of said range nine, to the middle of the bay of Biloxi; thence along the middle of said bay of Biloxi to its entrance, at the east end of Deer island; thence due south to the southern boundary of the State of Mississippi, on the gulf of Mexico; thence westwardly, along said boundary to a point from which a line due north strikes the middle of the bay of St. Louis; thence due north to the entrance of said bay, including all the islands within six leagues of the shore of the gulf of Mexico; thence along the middle of said bay of St. Louis, northwardly to a point from whence the point at which the line between ranges fourteen and thirteen comes to said bay bears due north; thence due north to the place of beginning.

369 (45). Harrison county (established February 5, 1841) is bounded by beginning at the north-west corner of township two, south, in range thirteen, west; thence extending due east along the line between townships one and two to the line between sections three and four, township two, range nine, west; thence due south through the middle of said range nine to the middle of the bay of Biloxi; thence along the middle of said bay of Biloxi to its entrance at the east end of Deer island; thence due south to the southern boundary of the State of Mississippi on the gulf of Mexico; thence westwardly along said boundary to a point from which a line due north strikes the middle of the bay of St. Louis; thence due north to the entrance of said bay, including all the islands within six leagues of the shore of the gulf of Mexico; thence along the middle of said bay of St. Louis northwardly to a point from whence the point at which the line between ranges fourteen and thirteen comes to said bay bears due north; thence due north to the place of beginning. County site, Mississippi City.

(Endorsed:) 1841 Original. Harrison county. Louisiana vs. Mississippi. Miss. Doc. No. 20 Filed June 1, / 04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar 13, 1905, James H. McKenney, clerk.

2062 MISS. DOCUMENT No. 21.

Chapter 52, Laws of Mississippi of 1842.

An Act to Extend the Jurisdiction of the County of Harrison, and for Other Purposes

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That the county of Harrison shall be bounded on the south by the southern boundary of the State of Mississippi.

Approved February 22, A. D. 1842.

(Endorsed:) (Original) Miss. act, Feb. 22, 1842. Louisiana *vs.* Mississippi. Miss. Doc. No. 21 Filed June 1/04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2063 MISS. DOCUMENT No. 22.

Article 2 of Section 2 of Chapter 2 of the Revised Code of Mississippi of 1857.

Art. 2. The counties lying immediately on the Mississippi river shall respectively, have and possess jurisdiction and extend to the middle of the river, or western boundary of the State, within the space embraced by extending their boundary lines, which strike the river, on a continuous direct course to the extreme boundary of the State, including all islands that may be within the limits just defined; and the counties bordering on the gulf of Mexico—to wit: Jackson, Harrison and Hancock—shall, respectively, have and possess jurisdiction and extend to the southern boundary of the State, within the space embraced by extending their boundary lines which strike the gulf of Mexico, or the inlets thereto, on a continuous direct course to the southern boundary of the State, including all islands that may lie within the limits thus defined.

(Endorsed:) 1857 (Original) Coast counties Louisiana *vs.* Mississippi Miss. Doc. No. 22 Filed June 1/04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

2064 MISS. DOCUMENT NO. 23.

THE STATE OF MISSISSIPPI,
Harrison County.

I, Z. T. Champlin, justice of the peace in district No. 1, of Harrison county, Mississippi, and custodian of the records of said office, hereby certify that the annexed transcripts in the cases of The State of Mississippi *vs.* —— Miller, March 14th, 1890, marketing unculled oysters.

—— Fulford, March 14th, 1890, marketing unculled oysters.
M. Edwards. " "
J. Perrisich " "
Capt. Strong. " "
Marco Ladina " "
Dominick Dulcich, " "
John Baker. " "
M. Bagatella " "
Emile Borsorge in channel.
George Smee. in channel.
R. B. Galloway. wharf unloading.
John Raymond channel.
Jack Cavocivich at wharf unloading.
John McAdy. in front Lopez factory.
Capt. Raymond, marketing unculled oysters.
Tony Bonacich. " "

Are true and correct transcripts of the original entry, proceedings and final judgment in each case, respectively taken from my official docket, pages 120 to 137 inclusive of both, now in my official keeping in the city of Biloxi, Mississippi, and I further certify that I am the identical Z. T. Champlin whose name appears as justice of the peace who tried said causes and entered said final judgments, as will more fully appear from the following entry made by me on page 75 of said docket when said docket was turned over to me by my predecessor W. M. Jordan (now deceased) justice of the peace of said district, on or about the 1st Monday of January 1886, to wit:

"A docket of proceedings both civil and criminal before Z. T. Champlin, justice of the peace, district No. 1 Harrison county, Miss."

I further certify that after diligent search in my said office and at all places where the affidavit and other papers are usually kept or likely to be found, I have been unable to find the same and presume them to have been lost or destroyed.

Witness my signature at my office in Biloxi Miss., the 14th day of June 1904.

This is an office of record but uses no seal.

Z. T. CHAMPLIN, J. P.,
Justice of the Peace.

2065 STATE vs. MILLER. } Marketing Unculled Oysters.

$25.50 paid.

Affidavit filed March 14th 1890 warrant issued and returned into court with defendant who being arraigned plead not guilty. After hearing the evidence the court finds the defendant guilty and finds him $10.00 and costs.
Fine remitted.

Z. T. CHAMPLIN, J. P.

Costs J. P.:

Sheriff	.25	Serving warrant	1.00
War	.40	R	.25
Writ	.20	Attend trial	.25
Writ	.20		
	1.05		1.50

Paid.
Remit.

STATE vs. FULFORD. } Marketing Unculled Oysters.

Affidavit filed March 14th, 1890, warrant issued and returned into court with defendant, who being arraigned plead not guilty. After hearing the evidence the court finds defendant guilty and fines him $10.00 and costs. Fine remitted.

Z. T. CHAMPLIN, J. P.

Paid.
Remit.

STATE vs. W. EDWARD. } Marketing Unculled Oysters.

Affidavit filed March 14, 1890, warrant issued and returned into court with defendant who being arraigned plead not guilty. After hearing the evidence the court finds the defendant guilty & fines him $10.00 and costs.
Fine remitted.

Z. T. CHAMPLIN, J. P.

2066 Paid.

ATATE vs. J. PERRISICH. } Marketing Unculled Oysters.

Affidavit filed March 14th, 1890, Warrant issued and returned into court with defendant, who being arraigned plead not guilty.

After hearing the evidence the court finds defendant guilty and fines him $10.00 and costs. Fine remitted in consideration of its being the first offense.

Z. T. CHAMPLIN, J. P.

Paid.

STATE
vs.
Capt. STRONG. } Marketing Unculled Oysters.

Affidavit filed March 14, 1890. Warrant issued and returned into court with defendant who being arraigned plead not guilty. After hearing the evidence the court finds defendant guilty and fines him $10.00 and costs.

In consideration of its being the first offense the fine is remitted.

Z. T. CHAMPLIN, J. P.

Paid.

STATE
vs.
MARCO LADINA. } Marketing Unculled Oysters.

Affidavit filed March 14th, 1890. Warrant issued and returned with defendant into court, who being arraigned plead not guilty. After hearing the evidence the court finds the defendant guilty and fines him $10.00 and costs.

In consideration of its being the first offense the fine is remitted.

Z. T. CHAMPLIN, J. P.

Paid.

STATE
vs.
DOMINICK DULCICH. } Marketing Unculled Oysters.

Affidavit filed March 14th, 1890.

Warrant issued and returned with defendant into court and after due trial the court finds him guilty and fines him $10.00 and cost. The fine remitted in consideration of its being the first offense.

Z. T. CHAMPLIN, J. P.

2067 STATE
vs.
JOHN BAKER. }

Affidavit filed March 14th. Warrant issued and returned into court March 15th, with defendant who being arraigned plead not guilty. After hearing the evidence the case dismissed because the State failed to lay the venue and defendant discharged.

Z. T. CHAMPLIN, J. P.

Aff.	.25	Warrant	1.00
Warrant	.40	R	.25
Writ	.20	Attend trial	.25
Writ	.20		
	1.05		1.50

Paid.

STATE
vs.
M. BAGATELLA. } Marketing Unculled Oyters.

Affidavit filed March 14th 1890.
Warrant issued same day returnable instanter.
Warrant returned into court with defendant who plead guilty and the court fines him $10.00 and cost, and in consideration of it being the first offense remits the fine.

Z. T. CHAMPLIN, J. P.

Aff.	.25	Warrant	1.00
Warrant	.40	R	.25
	.20	Attd. tr	.25
	.20		
	1.05		1.50

STATE
vs.
EMILIE BOSARGE. } In Channel.

Affidavit filed March 15th 1890.
Warrant issued and returned into court with defendants who being arraigned plead not guilty. After hearing the evidence the court dismissed the case.

Z. T. CHAMPLIN, J. P.

2068

STATE
vs.
GEORGE SMEE. } Channel.

Affidavit filed March 15th, 1890. Warrant issued and returned into court with defendant, who being arraigned plead not guilty. After hearing the evidence the court dismissed the case.

Z. T. CHAMPLIN, J. P.

STATE
vs.
R. B. GALLOWAY. } Wharf Unloading.

Affidavit filed March 15th, '90.
Warrant issued and returned with defendant into court, who be-

ing arraigned plead not guilty. After hearing the evidence the court dismissed the case.

Z. T. CHAMPLIN, J. P.

STATE OF MISS. vs. JOHN RAYMOND. } Channel.

Affidavit filed March 15, '90. Warrant issued and returned into court with defendant, who being arraigned plead not guilty. After hearing the evidence the court dismissed the case.

Z. T. CHAMPLIN, J. P.

STATE vs. JACK CAROCIVICH. } At Wharf Unloading.

Affidavit filed March 15, '90. Warrant issued and returned into court same day with defendant who being arraigned plead not guilty. After hearing the evidence the court dismissed the case without cost.

Z. T. CHAMPLIN, J. P.

STATE vs. JOHN MCADY. } In Front Lopez Factory.

Affidavit filed March 15, '90.

Warrant issued and returned into court with defendant who being arraigned plead not guilty. After hearing the evidence the case was dismissed because the State failed to lay the venue.

Z. T. CHAMPLIN, J. P.

2069 STATE vs. Capt. RAYMOND. } Marketing Unculled Oysters.

Affidavit filed March 15th '90. Warrant issued and returned into court with defendant who being arraigned plead not guilty. After hearing the evidence the case was dismissed because the State failed to lay the venue, Defendant discharged.

Z. T. CHAMPLIN, J. P.

STATE OF MISS. vs. TONY BONACICH. } Marketing Unculled Oysters.

Affidavit filed March 15th '90. Defendant in court plead not guilty. After hearing the evidence the case was dismissed because the State failed to lay and prove the venue. Defendant discharged.

Z. T. CHAMPLIN, J. P.

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. No. 23. Filed June 14/04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2070 MISS. DOCUMENT NO. 24.

STATE OF MISSISSIPPI, }
Harrison County. }

I, Z. T. Champlin, justice of the peace in district No. 1 of Harrison county Mississippi, and custodian of the records of said office, hereby certify that the annexed transcripts in the cases of The State of Mississippi *vs.* M. Bagatella, January 20th, 1894, charged with violating oyster ordinances of Harrison county, Miss., Jake Stanvich, January 20th, 1894, charged with violating oyster laws of Harrison county, Miss., John Bowen, February 17th, 1894, charged with resisting arrest, are true and correct transcripts of the original entry, proceedings and final judgments in each case, respectively
2071 taken from my offical docket of said dates in my official keeping in the city of Biloxi, Mississippi, and I further certify that I am the identical Z. T. Champlin whose name appears as justice of the peace who tried said causes and entered said final judgments, as will more fully appear from the following entry made on first fly leaf of said doc'cet when said docket was opened by me justice of the peace of said district on or about the 24 of Aug. 1893, to wit:—

"A docket of proceedings both civil and criminal before Z. T. Champlin justice of the peace, district No. 1, Harrison county, Miss."

I further certify that after diligent search in my said office and at all places where the affidavit and other papers are usually kept or likely to be found, I have been unable to find the same, and presume them lost or destroyed.

2072 Witness my signature, at my office in Biloxi, Miss., this the 14th day of June 1904. This is an office of record but uses no seal.

Z. T. CHAMPLIN, J. P.,
Justice of the Peace.

STATE OF MISS. }
v. } Violating Oyster Ordinance of Harrison County.
M. BAGATELLA. }

Affidavit filed November 27th, 1893, warrant issued same day returnable instanter. Warrant returned into court with the following endorsement thereon. Duly executed by arresting the within named defendant and placed him under his own recognizance for appearing before this court, January 20th, 1894, the above case
2073 being called, defendant being called, after hearing the evidence answered not but made default. The court thereon fined him in the sum of ten dollars and costs of court, and to stand committed to the county jail until fine and costs are paid.

Z. T. CHAMPLIN, J. P.

Capias issued and placed in hand of Constable Alex Horn Jan. 22nd, 1894.

THE STATE OF MISS. vs. JOHN BOWEN. } Resisting Arrest.

Affidavit filed December 22nd, 1893. Warrant issued same day returnable instanter. Warrant returned into court January
2074 20th 1894, with defendant and the case continued until the 3rd Saturday in February 1894 on account of the absence of defendant's attorneys unavoidable absence.

February 17th, 1894.—This day the above case being called, the defendant being in court, after being arraigned plead not guilty. The defendant having asked for a jury venire was issued and the following named persons were empaneled and sworn as jurors:

John Treloer, John Eislette, R. J. Grady, Louis Llado, U. E. Desporte, A. J. Meynier—After hearing all the evidence the jury retired and after deliberation returned the following verdict—We the jury find the defendant not guilty.

(Signed) JOHN W. TRELOER, Foreman.

2075 The court thereupon discharged the defendant without cost.

Z. T. CHAMPLIN, J. P.

STATE OF MISS. vs. JAKE STANOVICH. } Violating Oyster Ordinance, Harrison County, Miss.

Affidavit filed 27th November 1893. Warrant issued same day returnable instanter. Warrant returned into court January 20th, 1894, duly executed by arresting defendant and placed him under his own recognizance to appear before the court Jan. 20th, 1894.

The above case being called this January 26th, 1894 defend-
2076 ant failing to appear though called, after hearing the evidence the court finds defendant guilty and sentenced him to pay a fine of ten dollars and costs of court and stand committed to the county jail until fine and costs are paid.

Z. T. CHAMPLIN, J. P.

Capias.

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. No. 24. Filed June 14/1904. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2077 MISS. DOCUMENT NO. 25.

THE STATE OF MISSISSIPPI, Harrison County. }

I, the undersigned clerk of the circuit court of Harrison county, State of Mississippi, hereby certify that the annexed 13 pages of type-written matter, as pen corrected, is a true and correct copy of

the original proceedings in the matter of an official inquest held upon the body of John Kennedy, filed in this office as required by law on the 29th day of November 1886.

That said original file now remains in this, my said office, in the court house of said county at Gulfport, Mississippi and the circuit court clerk of said county is official keeper and custodian of said record of said inquest.

Witness my hand and seal of office, at Gulfport, Harrison county, Mississippi, this the 14th day of June 1904.

[Seal of the Circuit Court, Harrison County, Mississippi.]

A. J. RAMSEY, Clerk.

CREOLE GAP, October the 29th, 1886.

A man found in the west mouth of Creole gap flotting by Joseph Cattenaro.

Description.

About 5 feet 6 in. high, light complexion, light hair and mustache about thirty years of age. Homespun shirt and blue flannel shirt drilling draw-s and *janes* pants had on lace shoes cotton socks. Left arm badly cut as with a hatchet and slight cut over the right eye.

We the undersigned do believe that he came to his death by foul means.

Names of the Jury.	Names of Boats.
Samuel Nelson.	Schr. Velocity.
Joseph D. Nelson.	8 " Masie.
Charles S. Strong.	" Grace Ellena.
John A. Nelson.	Sloop Water Witch.
J. W. Strong.	Olive.
Sam'l W. Nelson.	
Charles Ewing.	
Willie Williams.	
Joseph Cattenaro.	
S. Lhoe Bradasich.	
Andrew Sandro.	
Sam Cherstovich.	

2078 The State of Mississippi to the sheriff or any constable of Harrison county:

You are required immediately to summon six good and lawful men of said county to appear before me L. B. Holly a justice of the peace, dist. No. 1, of said county and *ex-officio* coroner of said county at grave yard in the town of Biloxi in said county on the 31st day of October 1886 at the hour of 7 o'clock p. m. then and there to inquire on behalf of the State touching the death of John Kennedy, and be you then and there.

Given under my hand at Biloxi in the said county the 31st day of October A. D. 1886.

L. B. HOLLY,
J. P. and *Ex-officio* Coroner.

Capt. Bayley.
B. R. Clemens.
Mun. Jones.
H. Schnapps.
John Henley.
C. M. Golden.

The State of Mississippi to any lawful officer of Harrison county:

This is to command you to summon Andro Sandro, Simeon Chesterich, Alphonso Fayard, Henry Collier, to appear before the coroner's jury on Nov. 1st 1886 at six o'clock p. m. to testify as witnesses on behalf of the State, as to the cause of the death of John G. Kennedy found dead, and have then and there this writ.

Witness my hand this 1st day of Nov. 1886.

L. B. HOLLY,
J. P., *Ex-officio* Coroner.

Received this writ this 1st day of Nov. 1886 within process executed same day by summoning the within named witnesses.

F. SEAL, Sh'ff,
Per THOMAS BACHNED, Dept. Sh'ff.

The State of Mississippi to any lawful officer of Harrison county:

This is to command you to forthwith summons some surgeon or physician to immediately appear before the coroner's jury now at the Biloxi graveyard to examine the dead body of —— Kennedy found drowned and have then there this writ.

Witness my hand this 31st day of October 1886.

L. B. HOLLY,
J. P., *Ex-officio* Coroner.

Received this writ this 31st day of Oct. 1886, within process duly executed by summoning Dr. Chas. Pelaez according to command of within writ.

F. SEAL, Sh'ff,
Per THOMAS BACHNED, D. S.

2079 BILOXI, MISS., Nov. 1st, 1886.

This is to certify that at the inquest and post mortem examination held on the body of one John Kennedy on the 31st day of October 1886 the following facts were ascertained.

The body having been in the water for several days, then buried and afterwards exhumed was in a fearful state of decomposition and

kin completely disorganized—after due and diligent search but wounds could be discovered, one on the arm and the other on forearm of the left side, as well as a lacerated wound on the left supposed to have been produced by dragging the body by who found him, of an incised character. Owing to the condi- of the body as aforesaid I am unable to determine whether said ds were inflicted by the bite of a fish or the cut produced by shells of the use of a sharp cutting instrument. I also dis- ed that the humerus of the left side was splintered but not ured.

e flesh was firm and exhibited a clean cut.

ere was no wound about the head or face to be observed owing swollen condition of his face and head.

CHARLES PELAES, M. D.

STATE OF MISSISSIPPI, }
Harrison County. }

mony Taken before Jury of Inquest on Body of John Kennedy Found Dead.

FONSE FAYARD, sworn:

ent out to look for the body with Louis Conewas and the two ers of the deceased.

Wednesday morning 27th of October we went to the South at Cat island where they said he was drowned. Ves Homes to us & told us the body was found in Creole gap & buried. ere 8 miles from where the body was buried. He was buried morning, we got there about three o'clock in the evening, we got to where he was buried a man whose name I do not came to us at the body, the first thing that I saw was his hand, his right hand, there was no shirt on his breast, where the men the body there was no shells or brush only marsh grass and one of the boatmen ask us if we wanted any assistance we gave isfaction. One man from the schooner Grace Ellena came with a quilt for us to -rap the body, we had it recovered and go and get a box as soon as the weather would permit. The drug the body above high water mark, it seemed to me that o brothers took it very hard at the grave, the three brothers on a schooner in the oyster trade. They told me that he fell oard between three and four o'clock in the morning, they were road to the marsh to get a load of oysters.

y said that he was sounding outside of south side of Cant about three miles south of sand spit of Cat island. John dy the deceased bought the boat from Joe Kennedy, his er.

his
ALFONSE FAYARD.
mark.

2080 Dr. Pelaez, sworn:

The flesh around the cut, on the forearm, flesh was firm. The bone on the forearm was shivered the cut was to the bone, the wound was perfectly smoothe. I presume if the cut was made by the oysters through the motion of the water there would have been more cuts. The wound on his arm would certainly caused death the artery was severed.

CHARLES PELAEZ, M. D.

Andro Sandro, sworn, says:

The man who first found the body I do not know his name, but his nick name Matriculo. The body was found west mouth of Creole gap. The tide brought in the body lay in the water face up the man *a*came to me and said it was a woman. The man put a rope around his neck and took him alongside the marsh & called all the men, then all hands hauled him ashore with the rope around his body we took a small knife and cut the shirt on his arm & breast to look for marks to identify the body. The shirt on the breast was torn, we found his forearm cut, in raising his arm we found a cut on his arm, the cuts looked as if done with a hatchet, we all thought the man was foully dealt. When we buried the body we put straw under and over the body a plank on each side. Captain of Mobile boat gave me the report to bring to Biloxi. We dragged the body to about 100 ft. above the highwater mark, there was nothing but grass and mud between the water & the place we buried body nothing that would make those cuts.

his
ANDRO SANDRO.
mark.

Simeon Christovich, sworn, says:

I was tonging oysters we saw something while in the water. I called my partner's attention to we had no skiffs to go to it but the tide drifted it towards us. After the thing came near the first boat the captain of the schooner Velocity Capt. Matricole he went to it in a boat and hollowed it was a women, he came to us took me & my partner and went to the body. Matricole said we must put the body and bring we towed the body to the mark with a rope around his neck. Matriculo went to all of the boats to get the men. They all came we took the body ashore and examined it we cut the sleeve of the shirt with a small pocket knife to find mark by which to identify the body as all sailors have mark we found no mark, but we found a cut on the arm & one on forearm. The cuts were deep the cuts looked as if cut with a sharp instrument and by a heavy blow, it does not look as if done by fish or oyster shell he had two cuts on his forehead they bled. The captain of the Mobile boat gave us the certificate to bring to the office in Biloxi, after we buried the body we put a high cross over the grave. The body I saw in the Biloxi grave yard is the idencical body we buried at Creole gap. The breast was bare.

SIMEON CHRISTOVICH.

2061 HENRY COLLIER, sworn, says:—

I met Mr. A. Kennedy & Mr. Castaned, they asked me if I would go out with John Sherer after the body of their brother John Kennedy, we took a boat belonging to the brothers and went out. John Caillaret, John Scherer Louis Coueras; C. F. Coueras, Joe Kennedy and myself that went in the boat. We took the lamp to look for the body, we found the grave at Creole gap with a small cross at the head *the* about 5 or 6 feet high, we could designate as a grave by the cross, we found the grave about 10 or 11 o'clock Friday night, we in digging up the body the first thing I saw was his hand, I did not recognize the body. We went prepared to dig up the body and bring it to Biloxi for burial, No one examined the body. The body was bare. I was so excited I did not notice the body, Joe Kennedy took it hard at the grave. All these brothers were on a boat together.

his
HENRY COLLIER.
mark.

JOE KENNEDY, sworn, says.

That the body at the Biloxi grave yard was that of my brother John C. Kennedy. We left to go for oysters Biloxi, saw a norther gathering we came back to main land about 1 o'clock the deceased called us, we got up make sail we cross over the spit near the bouy at Cat island, after we got our bearing he commenced sounding for oysters, our pole was 11 feet long. I was steering when he fell overboard, my other brother was asleep in the cabin. John hollered only once when he fell over board when I brought the schooner up with *with* an anchor. I put the skiff over *boat*, the boat hardly touched the water before Louis L. Kennedy was in it looking for him, there was about 11 feet of water where he fell over board, we were three brothers on the boat, when I found he was gone I waited until morning then came home, we were about three miles from Cat land, it was outside the spit in Cat Island pass, after we reported his death we returned to look for him. Ves Homes informed us that the body was found, we dug to the body, I saw his hand and was satisfied it was my brother we returned home for a box, I saw him when John Scherer and the party who went for his body dug up.

JOS. C. KENNEDY.

LOUIS L. KENNEDY, sworn, says:—

We left Biloxi about 11 o'clock — m. on Monday to get a load of oysters, being a stranger to these parts do not know the name of the place we started to. John waked us up we got under *weigh*. I went below and went to sleep when Joe called John overboard, we unched the skiff before Joe rounded the schooner up. I got in skiff and went back to look for John to the place where I thought John was. By this time the schooner had got out of sight. I found

the schooner by Joe's blowing the horn. After the body was
2082 found and buried we went to the grave dug to the hands and breast. I recognized it to be my brother by the description given by the men who found the body, but at the Biloxi grave yard I recognized the body to be that of my brother John.

LOUIS L. KENNEDY.

BILOXI, Oct. 31st, 1886.

To L. B. Holly, J. P. & *ex-officio* coroner:

We the undersigned jurors duly sujmoned, empaneled and sworn to diligently inquire into the cause of the death of John Kennedy would request that you cause to be summoned some surgeon or physician to appear before this jury as a witness upon the taking of such inquest.

Respectfully,

J. W. HENLEY.
B. F. CLEMENS.
H. KNAPP.
C. N. GOLDEN.
J. A. JOHNS.
WILLIAM BAYLEY.

I hereby certify that Dr. Charles Pelaez was summoned and performed the duties according to the above request.

Witness my hand this 2nd day of Nov. 1886.

L. B. HOLLY,
J. P. & *Ex-officio* Coroner.

THE STATE OF MISSISSIPPI, }
Harrison County. }

Verdict of Jury of Inquest Held on the Body of John C. Kennedy.
Found Drowned.

First. We the jury find that the deceased came to his death by accidental drowning.

2nd. From the evidence adduced at this inquest we are fully satisfied that the wounds found on the body of deceased were not inflicted by human hands.

Biloxi, Nov. 1st, 1886.

(Signed)

B. R. CLEMENS.
J. W. HENLEY.
J. A. JOHNS.
C. N. GOLDEN.
H. KNAPP.
WILLIAM BAYLEY.

Approved:

L. B. HOLLY,
J. P. & *Ex-officio* Coroner.

I, L. B. Holly, a justice of the peace of said county and *ex-*
2083 *officio* coroner certify that the foregoing is the written request of the above named jury, and also a true copy of the verdict of the jury of inquest on the body of John C. Kennedy found drowned.

Given under my hand this 2nd day of Nov. 1886.

L. B. HOLLY,
J. P. and *Ex-officio* Coroner.

THE STATE OF MISSISSIPPI, }
Harrison County. }

Coroner's inquest began and held on the body of John C. Kennedy found drowned, summons for jury issued Oct. 31st, 1886, returnable at 7 o'clock p. m .at the Biloxi grave same day, the sheriff at the appointed time and placed returned said summons endorsed.

Received this writ this 31st day of Oct. 1886, duly executed by summoning the following named good & lawful men of my county towit:—B. R. Clemems, C. N. Golden, H. Knapp, J. W. Henley, J. A. Johns & William Bayley, who being duly empaneled and sworn as directly by law proceeded to examine the body finding certain wounds thereon, in writing request that some surgeon or physician be summoned as a witness to examine said body, after examining the witness present, adjourned the inquest until Nov. 1st, and ordered subpœnas for Andro Sandro, Simeon Cretovitch, Alfonse Fayard, Henry Collier, also a warrant for the arrest of Joe and Louis Kennedy. This 1st day of Nov. 1886 the jury after hearing the evidence of the above named witnesses, also the statement of the said Joe & Louis Kennedy after mature deliberation rendered the following verdict.

1st. We the jury find that deceased came to his death by accidental drowning.

2nd. From the evidence adduced at the inquest we are fully satisfied that the wounds found on the body of the deceased were not inflicted by human hands.

Biloxi Nov. 1st 1886.

(Signed) B. R. CLEMENS.
J. W. HENLEY.
J. A. JOHNS.
C. N. GOLDEN.
H. KNAPP.
WALTER BAYLEY.

L. B. HOLLY,
J. P. & *ex Officio* Coroner.

Detailed Fee Bill (Sh'ff's Cost).

As coroner	$5.00
2 subpœnas @ .25	.50
1 summons doctor	.25
Swearing 7 witnesses	.35
	$6.10
Summoning coroner's inquest	1.00
Summoning six witnesses	1.50
Rec. & ret. 2 writs	1.00
	$3.50
Serving warrants of arrest by order of jury	2.00
	5.50
2084 Six jurors 2 days on inquest	12.00

Recapitulation.

Coroner	6.10
Sh'ff	5.50
Jury	12.00
	23.60

Doctor's fee left to the board for allowance.

I, L. B. Holly, a justice of the peace of said county certify that the foregoing is a copy of the record of the proceedings before me acting coroner as stated therein as appears on my docket.

Given under my hand this 2nd day of Nov. 1886.

L. B. HOLLY,
J. P. and *Ex-officio* Coroner.

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. No. 25 Filed June 14/1904 Wm. D. Bullard commissioner. Kennedy inquest. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2085 MISS. DOCUMENT No. 25*a*.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the March Term, A. D. 1882.

THE STATE OF MISSISSIPPI,
Harrison County.

A term of the board of supervisors of said county, required by law, begun and was held at the court house of said county, in the town of Mississippi City, on the first Monday of March A. D. 1882,

being the 6th day of said month, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, F. B. Hiern, president, Jno. E. Morrison, T. J. Stewart, A. J. Bond, and Henry Williams, members; Thos. Bond, sheriff of said county, and F. S. Hewes, clerk of said board.

"Ordered by the board of supervisors of Harrison county Missis-" "sippi:—

"1st. That all oysters caught or taken from the public oyster" "banks or reefs, within the limits of this county, shall be culled" "on the banks or reefs, where taken, and that they be so culled as" "to scatter the cullings."

"2nd. That the catching or taking of oysters from said public" "banks or reefs, from the 1st day of May until the first day of Sep-" "tember, of each year, be and is hereby prohibited except for local" "consumption in this county."

"3rd. That it shall be unlawful for any person, company, or cor-" "poration, to convey or carry out of the limits of this county any" "oysters taken during the time prohibited in section 2 of this order."

"4th. That any person or persons violating the provisions of the" "1st section of this order shall be fined in the sum of $10.00, and" "for a violation of the second section, shall be fined in the sum of" "$20.00 and for a violation of the provisions of section 3, the fine" "shall be $25.00. Said fines to be recovered before any court of" "competent jurisdiction. One half of such fines, when collected," "to be paid to the informer and the other half to — paid into the" "county treasury for the benefit of the free public schools of this" "county."

"Done this the 7th day of March, 1882."

THE STATE OF MISSISSIPPI, }
Harrison County. }

I, F. S. Hewes, clerk of the chancery court of said county of Harrison, and *ex officio* clerk of the board of supervisors thereof, do hereby certify that the foregoing contains a full, true correct and complete transcript of an ordinance passed by the board of supervisors of Harrison county, at their March term A. D. 1882, on the 6th day of March, 1882, regulating the taking of oysters from the public oyster reefs of Harrison county, as the same appears and remains of record in my office in Book No. 3, page 229, of the minutes of said board of supervisors.

Given under my hand and official seal of said chancery court hereto affixed at my office in Gulfport, Miss., the 23rd day of June, 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk Chancery Court & *ex Officio* Clerk of
Board of Supervisors, Harrison County, Miss.

2086 (Endorsed:) 1882 Louisiana *vs.* Mississippi Doc. 25 "A" Filed June 25/04 Wm. D. Bullard com'r. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2087 MISS. DOCUMENT No. 26.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the August Term, A. D. 1884.

THE STATE OF MISSISSIPPI,
Harrison County.

A term of the board of supervisors of said county, State aforesaid, required by law, begun and was held in and for said county, at the court house thereof, in the town of Mississippi City, in said county, on the first Monday of August A. D. 1884, being the 4th day of said month, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, F. B. Hiern, president, John E. Morrison, T. J. Stewart, A. J. Bond and W. E. Whittington, members, Florian Seal, sheriff of Harrison county, and F. S. Hewes, clerk of said board.

"Be it ordained by this board that any person or persons who" "shall take, carry away, injure or destroy, or in any manner inter-" "fere with, any beds of oysters, planted, bedded or grown, in which" "the right of property has been or may be hereafter granted and" "authority give- to bed, bank, plant or grow, in the waters of the" "Mississippi sound, within the limits of Harrison county, shall be" "guilty of a misdemeanor, and on conviction thereof, before any" "justice of the peace of this county, shall be fined in not less than" "the sum of ten dollars, and not more than one hundred, or im-" "prisoned in the county jail not less than five days, nor more than" "twenty, or both, such fine and imprisonment as the justice may" "deem proper."

THE STATE OF MISSISSIPPI,
Harrison County.

I, F. S. Hewes, clerk of the chancery court of said county and State, and *ex-officio* clerk of the board of supervisors of Harrison county, Mississippi, do hereby certify that the foregoing contains a full, true, correct and complete transcript of an order passed by the board of supervisors of Harrison county and State of Mississippi, at their August term A. D. 1884, on the 4th day of August, 1884, as the same appears and remains of record in my office in Book Number Three, pages 334 and 335 of the minutes of the board of supervisors of said county and State.

iven under my hand and official seal of said chancery court to affixed at my office in Gulfport, Miss., on this the 23rd day une, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk of the Chancery Court and *Ex-officio* Clerk of the
Board of Supervisors of Harrison County, Miss.

Endorsed:) Louisiana vs. Mississippi. Miss. Doc. No. 26. Ordi-ce 1884. Filed June 25th 1904. Wm. D. Bullard comm'r. de for) Office Supreme Court U. S. Filed Mar. 13 1905. James McKenney, clerk. 1884 By Mississippi Abstract Title and ranty Co. Offices: Scranton, Gulfport, Hattiesburg, Mississippi.

8 MISS. DOCUMENT No. 27.

utes of the Board of Supervisors of Harrison County, Mississippi, at the August Term, A. D. 1885.

E STATE OF MISSISSIPPI, }
Harrison County. }

A term of the board of supervisors of said county, State aforesaid, uired by law, begun and was held in and for said county, at the rt house thereof, in the town of Mississippi City, in said county, the first Monday of August, A. D. 1885, being the third day of l month, the same being the time and place designated by law for ding said meeting of said board.

Were present and in attendance on said board, F. B. Hiern, pres-nt, Jno. E. Morrison, T. J. Stewart, A. J. Bond, and W. E. Whit-gton, members, F. Seal; sheriff of Harrison county, and F. S. wes, clerk of said court.

"It is hereby ordered and ordained that section 3. of the ordi-" ance passed and adopted at the March term 1882 of this board," nown as the "oyster ordinance" be and is hereby amended, by" riking out the word "taken" before the words "during the time" rohibited in section two of this order," and by inserting or adding" fter the word "order" aforesaid the words "except preserved or" anned oysters." It is further ordered that the said clerk publish" aid ordinance so amended in the Coast Beacon."

IE STATE OF MISSISSIPPI, }
Harrison County. }

I, F. S. Hewes, clerk of the chancery court of said county and ate, and *ex officio* clerk of the board of supervisors of Harrison unty, Miss., do hereby certify that the foregoing contains a true, rrect, full and complete transcript of an amendment to an ordi-

nance passed and adopted at the March term 1882 of the board of supervisors of said county and State as the same appears and remains of record in my office in Book 3, page 397, of the minutes of the board of supervisors of said county and State, at their August term A. D. 1885, on the 3rd day of August, 1885.

Given under my hand and official seal of said chancery court hereto affixed at my office in the town of Gulfport, Miss., this the 23rd day of June, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk of the Chancery Court and *Ex officio* Clerk of the Board of Supervisors of Harrison County, Mississippi.

(Endorsed:) Louisiana vs. Mississippi Doc. No. 27 Filed June 25/04 Wm. D. Bullard, com'r. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2089 MISS. DOCUMENT NO. 28.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at Their March Term, A. D. 1888.

THE STATE OF MISSISSIPPI,
Harrison County.

A term of the board of supervisors of said county, State aforesaid, required by law, begun and was held, in and for said county, at the court house of said county, in the town of Mississippi City, in said county and State, on the first Monday of March A. D. 1888, being the *fifty* day of said month, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, A. J. Bond, president, F. H. McCaleb, John Scarborough, J. E. Cruthirds and W. E. Whittington, members, Florian Seal, sheriff, of said Harrison county, and F. S. Hewes clerk of said board.

MARCH 8TH, 1888.

"It is hereby ordered and ordained by the board of supervisors" "of Harrison county, Mississippi, that section two of the ordinance" "passed and adopted at the March term 1882 of this board, known" "as the oyster ordinance, be and is hereby amended by striking out" "the words "in this county" after the word "consumption." It is" "further ordered that the clerk publish said ordinance, as amended," "in the Biloxi Herald."

THE STATE OF MISSISSIPPI,
Harrison County.

I, F. S. Hewes, clerk of the chancery court of said county and State, and *ex-officio* clerk of the board of supervisors of said county,

do hereby certify that the foregoing contains a full, true, correct and complete transcript of an amendment to an ordinance passed and adopted at the March term 1882 of this board, known as the "oyster ordinance," as the same appears and remains of record in my office in Book No. Three, page 534 of the minutes of the board of supervisors of Harrison county, Mississippi.

Given under my hand and official seal of said chancery court hereto affixed at my office in the town of Gulfport, Miss., this the 22d day of June, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk of the Chancery Court & *Ex-officio* Clerk of the
Board of Supervisors of Harrison County, Mississippi.

(Endorsed:) Louisiana vs. Mississippi Doc. 28 Filed June 25 '04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk. 1888.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the November Term, A. D. 1892.

THE STATE OF MISSISSIPPI, }
Harrison County. }

A regular term of the board of supervisors of said county of Harrison, begun and was held, in and for said county, at the court house thereof, in Mississippi City in said county and State, on the 1st Monday of November A. D. 1892, being the 7th day of said month, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board A. J. Bond, president, Phil McCabe, T. J. Stewart, John Scarborough & R. W. Hatten, members, F. Seal, sheriff of said county, and F. S. Hewes, clerk of said board.

"An Ordinance for the Protection and Preservation of the Public "
"Oyster Reefs of Mississippi Lying within the Borders of Har- "
"rison County and to Create a Revenue to Enforce the Same."

"SECTION 1. It shall be unlawful for any person or persons to "
ship or carry beyond the limits of the State of Mississippi, by "
any boat or water-craft any oysters taken from any public reef "
in the waters of Harrison county, in said State, while the same "
are in the shell, or to take or catch any oysters from any public "
reef in said county to be so shipped or carried beyond the limits "
of the said State."

"SECTION 2. It shall be unlawful to take from any public reef
"in the waters of said county any oyster, the shells of which are
"less than two and one half inches in length, except for planting
"purposes, and all oysters taken for any other purpose shall be
"culled so that there will not be more than four oysters in any one
"bunch, and they shall be culled free from all dead and empty
"shells and young and unmarketable oysters, which shall be left
"on the reefs where they are taken; provided that such young and
"unmarketable oysters may be removed or disposed of for plant-
"ing purposes within the tide-water of the State of Mississippi."

"SEC. 3. No person shall catch oysters on any public reef in the
"waters of said county, without first procuring from the clerk of
"the circuit court of said county a license for each boat to be used
"by him in catching and transporting oysters, which license shall
"expire one year after date; and in his application for such license
"he shall give the capacity of his boat, or boats and their names;
"all boats shall pay the sum of fifty cents per ton burden for such
"license, and shall pay to the clerk fifty cents for each and every
"license so issued; provided that no boat or vessel under one ton
"measurement shall be subject to the provisions of this section;
"provided, further, that no boats licensed by the board of super-
"visors of Hancock and Jackson counties shall not be required to
"pay an additional license in this county."

"SEC. 4. The clerk shall keep a record of all licenses so issued,
"and shall correctly number the same, and the person to whom
"such license is issued shall cause such number and the word
"'licensed' to be painted in red letters not less than four inches in
"size in some conspicuous place on the boat for which such license
"is issued. The said clerk shall receive all money arising from
"said licenses and shall pay the same to the county treasurer, and
"such money so paid in shall create a fund, which fund shall be
"known and designated as the oyster fund, and shall be
2091 "appropriated by the board of supervisors, in their discre-
"tion, in such manner as will best secure the enforcing of
"this ordinance, and said fund shall be used for no other purpose."

"SEC. 5. The sheriff, oyster inspector, the several constables, and
"all other officers having like powers, within the county of Harri-
"son, shall have the power at any time to go on board of any
"boat or vessel being used in fishing oysters in the waters of said
"county and to demand that the parties in control of such vessel
"exhibit the license of such boat to be used in fishing for oysters
"in said waters; and it shall be unlawful for any person in con-
"trol or on board of such boat or vessel to refuse or fail to exhibit
"such license to any such officer demanding the same for inspec-
"tion; and it shall be the duty of the said sheriff constable and
"other officers, to arrest, with or without process, any person or
"persons violating any of the provisions of this ordinance and to
"take them before any magistrate or justice of the peace, or the
"mayor of any incorporated town or city, in said county, for trial

"and every such magistrate or justice of the peace, or mayor, shall "
"have jurisdiction of all offenses committed in violation of this "
"ordinance."

"Sec. 6 Any person who shall violate any of the provisions of "
"this ordinance shall on conviction be fined not less than ten dol- "
"lars for the first offense, and for the second offense not less than "
"twenty dollars, and be imprisoned in the county jail not less "
"than five days, and all persons so convicted shall stand committed "
"until the fines and costs are paid."

"Sec. 7. When a prosecution under this ordinance shall be com- "
"menced and prosecuted to a conviction upon the information or "
"complaint of any private person, and the officer or judge trying "
"the cause shall so certify on his docket, "then and in that case" "
"such prosecutor shall be entitled to one half of the fine, to be "
"paid to him by the officer collecting the same, upon the order of "
"the magistrate or judge trying the cause; the other half to be "
"paid into the county treasury."

"Sec. 8. That *is* this ordinance take effect and be in force from "
"and after this 7th day of November, 1892, and that all former "
"ordinances of this board on the subject, in conflict with this ordi- "
"nance be and are hereby repealed."

THE STATE OF MISSISSIPPI, }
Harrison County. }

I, F. S. Hewes, clerk of the chancery court of said county and State, and *ex officio* clerk of the board of supervisors of the county of Harrison, said State, do hereby certify that the foregoing contains a true, full, correct and complete transcript of an ordinance passed by the board of supervisors of Harrison county, Mississippi, at their November term A. D. 1892, being the 7th day of November, 1892, as the same appears and remains of record in my office in Minute Book Number Four, pages 222, 223 and 224 of the minutes of the board of supervisors of Harrison county, Mississippi.

Given under my hand and official seal of said chancery court hereto affixed at my office in Gulfport, Miss., this the 23rd day of June, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk Chancery Court and *ex Officio* Clerk of the
Board of Supervisors of Harrison County, Miss.

(Endorsed:) Louisiana vs. Mississippi Doc. 29 Filed June 25/04 H. D. Bullard commissioner. Office Supreme Court U. S. Filed Oct. 13, 1905, James H. McKenney, clerk. 1892.

2093 MISS. DOCUMENT NO. 30.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the December Term, A. D. 1892.

THE STATE OF MISSISSIPPI,
Harrison County.

A regular term of the board of supervisors of said county of Harrison, State aforesaid, begun and was held in and for said county, at the court house thereof, in Mississippi City, in said county and State, on the 1st Monday of December A. D. 1892, being the 5th day of said month, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, A. J. Bond, president, Phil McCabe, T. J. Stewart, John Scarborough, W. R. Hatten, members, F. Seal, sheriff of said county, and F. S. Hewes, clerk of the chancery court of Harrison county and *ex officio* clerk of said board.

"Ordered by the board that section 3 of an ordinance of this" "board, adopted on the 7th day of November 1892, entitled "An" "ordinance" "for the protection and preservation of the public" "oyster reefs of Mississippi lying within the borders of Harrison" "county, and to create a revenue to enforce the same be and is" "hereby amended as follows, by adding to said section as it now" "appears and after the word "county" in the last line thereof," "the words "provided further that a license, under this ordinance," "shall not hereafter issue to any boat, whose owner is not a citizen" "of the State of Mississippi."

THE STATE OF MISSISSIPPI,
Harrison County.

I, F. S. Hewes, clerk of the chancery court of said county and State, and *ex officio* clerk of the board of supervisors of the county of Harrison, State aforesaid, do hereby certify that the foregoing contains a full, true, correct and complete transcript of an amendment to an ordinance passed by the board of supervisors on the 7th day of November, 1892, entitled "An ordinance for the protection and preservation of the public oyster reefs of Mississippi, lying within the borders of Harrison county, and to create a revenue to enforce the same," as the same appears and remains of record in my office in Minute Book Number Four, pages 228 of the minutes of the board of supervisers of Harrison county, Mississippi.

Given under my hand and official seal of said chancery court hereto affixed at my office in Gulfport, Miss. on this the 23rd day of June, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk of the Chancery Court and *ex Officio* Clerk of the
Board of Supervisors of Harrison County, Mississippi.

(Endorsed :) Louisiana *vs.* Mississippi Doc. No. 30 Filed June 25/04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk. 1892

2094 MISS. DOCUMENT No. 31.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the January Term, A. D. 1893.

THE STATE OF MISSISSIPPI, }
Harrison County. }

A regular term of the board of supervisors of Harrison county, State aforesaid, was begun and held in and for said county, at the court house thereof, in Mississippi City, in said county, and State, on the 1st Monday of January, A. D. 1893, being the 2nd Monday of said month, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, A. J. Bond, president, Phil McCabe, T. J. Stewart, John Scarborough, and R. W. Hatten, members, F. Seal, sheriff of Harrison county, and F. S. Hewes, clerk of said board.

JANUARY THE 4TH, 1893.

"Ordered that M. Gurovich, Capt. Jack of schooner Gosana, Wm. " Dukate, I. Heidenheim, and F. S. Hewes, chairman, be and are " hereby appointed a committee to draft an oyster ordinance under " chapter 96, Code 1892, to be presented to the board at its next " meeting for consideration."

"Ordered by the board that the issuance of licenses to boats to " catch oysters in the waters of this county be and is hereby sus- " pended until the further order of this board."

"Ordered by the board that the oyster inspector shall be out on " the oyster reefs at least five days in each week."

"Ordered by the board that the board do now adjourn until " next Monday morning at 9 o'clock, being the 9th day of January, " 1893, for the purpose of receiving the report of the committee " appointed to draft an oyster ordinance and to act on same and " to consider the matter of the protection of oysters in the waters " of this county and pass all necessary orders and ordinances on " that subject."

Monday morning, nine o'clock, January the 9th, 1893, the board met pursuant to adjournment: Present, A. J. Bond, president, Phil McCabe, T. J. Stewart, John Scarborough, members, F. Seal, sheriff, and F. S. Hewes, clerk ; absent, R. W. Hatten.

"Ordered by the board that the following ordinance be and is " hereby adopted. (The committee appointed at the last meeting " having reported and suggested the same.) "

"An ordinance for the protection and preservation of the public" "oyster reefs of Mississippi lying within the borders of Harri-" "son county, Mississippi, and to create a revenue to enforce the" "same."

"SECTION 1. It shall be unlawful for any person to take from" "the natural oyster reefs within the waters of this Harrison county," "Mississippi, any oysters between the first day of May, and the" "first day of September, of each year, except by boats owned by" "citizens of the State of Mississippi, for planting purposes and" "domestic use of the inhabitants thereof, and the owners of said" "boats shall present their licenses, hereinafter provided for, to" "the clerk of the circuit court of this county, and have en-" 2095 "dorsed on same the fact of ownership and citizenship, on" "proof thereof made to said clerk."

"SECTION 2. It shall be unlawful to take from any public oys-" "ter reef in the waters of said county of Harrison, any oysters the" "shells of which are less than two and one half inches in length," "except for planting purposes, and all oysters taken for any other" "purpose, shall be culled, so that there will not be more than four" "oysters in any one bunch, and they shall be culled free from all" "dead oysters, empty shells and young and unmarketable oysters," "which shall be left on the reefs where they are taken, provided" "that such young and unmarketable oysters may be removed or" "disposed of for planting purposes, within the tide waters of the" "State of Mississippi."

"SECTION 3. No persons shall catch oysters on any public reef" "in the waters of said county of Harrison without first procuring" "from the clerk of the circuit court of said county, a license for" "each boat to be used by him in catching or transporting oysters," "during the season of each year, to wit:—from the 1st day of Sep-" "tember to 1st day of May, and in his application for such license" "he shall give the capacity of his boat and boats and their names." "All boats shall pay the sum of fifty cents per ton burden for each" "and every license so issued, provided that no boat or vessel under" "one ton measurement shall be subject to the provisions of this" "section; provided further, that boats licensed by the board of" "supervisors of Hancock and Jackson counties shall not be re-" "quired to pay an additional license in this county."

"SECTION 4. The clerk shall keep a record of all licenses so" "issued, and shall correctly number the same, and the person to" "whom such license is issued, shall cause such number and the" "word "licensed" to be painted in red letters, not less than four" "inches in size, in some conspicuous place on the boat, for which" "such license is issued. The said clerk shall receive all moneys" "arising from said licenses, and shall pay the same to the county" "treasurer, and such money so paid in shall create a fund, which" "fund shall be known and designated as the "oyster fund," and"

"shall be appropriated by the board of supervisors in their discre- "
"tion, in such manner as will best secure the enforcing of this ordi- "
"nance, and said fund shall be used for no other purpose."

"SECTION 5. The sheriff, oyster inspector, the several constables, "
"and all other officers having like powers, within the county of "
"Harrison, shall have the power, at any time, to go on board of "
"any boat or vessel, being used in fishing oysters, in the waters of "
"said county, and to demand that the parties in control of such "
"vessel, exhibit the license of such boat, to be used in fishing for "
"oysters in said waters, and it shall be unlawful for any person in "
"control or on board of such boat, or vessel to refuse or fail to ex- "
"hibit such license to any such officer demanding the same for "
"inspection; and it shall be the duty of the said sheriff, constable, "
"and other officers to arrest, with or without process, any person "
"or persons violating any of the provisions of this ordinance, and "
"to take them before any magistrate or justice of the peace, or the "
"mayor of any incorporated town or city, in said county for trial, "
"and every such magistrate, justice of the peace, or mayor, shall "
"have jurisdiction of all offenses committed in violation of this "
"ordinance."

2096 "SECTION 6. Any person who shall violate any of the pro- "
"visions of this ordinance, shall on conviction be fined not "
"less than ten dollars, or more than twenty dollars, for the first "
"offense, and for the second offense, not less than twenty dollars," "
"or more than fifty dollars, and be imprisoned in the county jail "
"not less than five days or more than thirty days, and all persons "
"so convicted shall stand committed until the fines and costs be "
"paid."

"SECTION 7. When a prosecution under this ordinance shall be "
"commenced and prosecuted to a conviction upon the information "
"or complaint of any private person and the officer or judge try- "
"ing the cause, shall so certify on his docket, then and in that case "
"such prosecutor shall be entitled to one half of the fine, to be "
"paid to him by the officer collecting the same, upon the order of "
"the magistrate or judge trying the cause, the other half to be paid "
"into the county treasurey and placed to the credit of said oyster "
"fund."

"SECTION 8. That no corporation, person or association of per- "
"sons, shall take from the public oyster reefs in the waters of this "
"county, more than nine thousand barrels in any one season, and "
"are hereby authorized to take that amount from said reefs."

"SECTION 9. That all ordinances on this subject heretofore made "
"by this board and the amendments thereto be and are hereby re- "
"pealed, provided that all licenses heretofore issued under said "
"ordinances remain in force as issued, subject only to the provis- "
"ions of section one of this ordinance."

"SECTION 10. That this ordinance take effect from and after this "
"9th day of January, A. D. 1893."

"Ordered by the board that the duties of the oyster inspector ap- "

" pointed by this board shall be to see to the enforcement of the "
" oyster ordinance adopted by this board, especially as to the cull- "
" ing of oysters on the reefs, the taking of oysters only by boats "
" having a license from this county or that of Hancock and Jack- "
" son counties, and the taking of oysters for domestic use and plant- "
" ing purposes only, out of season, by citizens of this State. It "
" shall be the duty of such inspector to visit said reefs and be out "
" on same for at least 5 days in the week, and that the compen- "
" sation of such inspector be and is hereby fixed at $90.00 per "
" month including use of boat and crew, and it is further ordered "
" that the expenditures authorized above shall not exceed the re- "
" ceipts provided for in the oyster ordinance."

" Ordered by the board that F. D. Moran be and he is hereby "
" appointed oyster inspector of Harrison county as required by "
" chapter 96, Code 1892, vice L. F. Young, resigned."

THE STATE OF MISSISSIPPI, }
Harrison County. }

I, F. S. Hewes, clerk of the chancery court of said county and State, and *ex officio* clerk of the board of supervisors of Harrison county, Mississippi, do hereby certify that the foregoing contains a full, true, correct and complete transcript of the following orders and ordinances adopted by the board of supervisors of said county at their January meeting 1893 thereof, to wit:—

2097 An order appointing a committee to draft an oyster ordinance, under chapter 96, Code 1892, which order appears in Minute Book 4, page 242, of the minutes of said board; also, an order suspending the issuance of licenses to boats to catch oysters in the waters of this county until the further order of the board, as the same appears in Minute Book Number Four, page 242; also, an order that the oyster inspector shall be out on the reefs at least five days in each week, as the same remains of record in Minute Book No. 4, page 242; also, an ordinance entitled "An ordinance for the protection and preservation of the public oyster reefs of Mississippi, lying within the borders of Harrison county, Mississippi, and to create a revenue to enforce the same," as the same appears and remains of record in my office in Minute Book No. 4, pages 243, 244 and 245; also an order defining the duties of the oyster inspector as to the enforcement of the ordinance adopted by the board, as the same remains of record in Minute Book No. 4, page 245; also, an order appointing F. D. Moran, oyster inspector of Harrison county, which appears of record in Minute Book No. 4, page 245; all of which orders and ordinances above appear and remain of record in my office as clerk of the chancery court, and *ex officio* clerk of the board of supervisors of Harrison county, Mississippi.

Given under my hand and the official seal of said chancery court

ed at my office in Gulfport, Mississippi, on this the 23rd day of
e, A. D. 1904.
Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Chancery Clerk and *ex Officio* Clerk of the Board
of Supervisors of Harrison County, Mississippi.

ndorsed:) Jan'y 1893. Louisiana *vs.* Mississippi Doc. 31.
l June 25/04 Wm. D. Bullard, commissioner. Office Su-
ne Court U. S. Filed Mar. 13, 1905, James H. McKenney,
k.

MISS. DOCUMENT NO. 32.

ntes of the Board of Supervisors of Harrison County, Mississippi,
at the January Term, A. D. 1893.

STATE OF MISSISSIPPI, }
Harrison County. }

regular term of the board of supervisors of said Harrison county,
e aforesaid, was begun and held in and for said county, at the
t house thereof, in Mississippi City, in said county and State, on
1st Monday of January A. D. 1893, being the 2nd *Mon*day of
month, the same being the time and place designated by law
olding said meeting of said board.
ere present and in attendance on said board, A. J. Bond, presi-
, Phil McCabe, T. J. Stewart, John Scarborough, and R. W. Hat-
members, F. Seal, sheriff of Harrison county, and F. S. Hewes,
k of said board.
Ordinance that section 1 of the ordinance adopted at the No- "
nber term, 1892, of this board, for the protection of oysters on "
public oyster reefs of Harrison county, Mississippi, be, and "
same is hereby amended by inserting after the word "persons" in "
first line of said section, the words, "other than inhabitants "
his State."
Ordered further that the amendment to said ordinance adopted "
he December term 1892, of this board, recorded on page 228,"
nute Book 4, wherein it is provided that a license under this "
inance shall not hereafter issue to any boat whose owner is "
a citizen of the State of Mississippi, be and the same is hereby "
ealed."

STATE OF MISSISSIPPI, }
Harrison County. }

F. S. Hewes, clerk of the chancery court of the county of Har-
, said State, and *ex officio* clerk of the board of supervisors of
ison county, Mississippi, do hereby certify that the foregoing

contains a true, full, correct and complete transcript of an amendment to an ordinance adopted at the November term 1892 of the board of supervisors of said county and State, entitled "An ordinance for the protection and preservation of the public oyster reefs of Mississippi, lying within the borders of Harrison county, and to create a revenue to enforce the same," as the same appears and remains of record in my office in Minute Book Number Four, page 234, of the minutes of the board of supervisors of Harrison county, Mississippi.

Given under my hand and official seal of said chancery court hereto affixed at my office in Gulfport, Miss., on this the 23rd day of June, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk of the Chancery Court and *ex Officio* Clerk of the
Board of Supervisors of Harrison County, Miss.

(Endorsed :) Doc. No. 32. Louisiana *vs.* Mississippi Filed June 25 '04 Wm. D. Bullard, commissioner. Office Supreme Court U.S. Filed Mar. 13 1905. James H. McKenney, clerk.

2099 MISS. DOCUMENT No. 33.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the August Term, A. D. 1893.

THE STATE OF MISSISSIPPI,
Harrison County.

A regular term of the board of supervisors of Harrison county, State aforesaid, was begun and held in and for said county and State, on the first Monday of August A. D. 1893, being the 7th day of said month, in the court house of said county, in Mississippi City, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, A. J. Bond, president Phil McCabe, T. J. Stewart, John Scarborough, and R. W. Hatten, members of said board, F. Seal, sheriff of Harrison county, and F. S. Hewes, clerk of the chancery court of Harrison county, and *ex officio* clerk of said board.

"Ordered by the board of supervisors of Harrison county, in the" "State of Mississippi, that hereafter it shall be unlawful for any" "person, or persons, to take or catch oysters from the public oyster" "reefs in said county with dredges, scoops or drags, or like instru-" "ments, other than ordinary oyster tongs, within the waters of" "Harrison county. If any person or persons, shall so take or catch" "oysters with such dredges, scoops, scrapes or drag or like instru-" "ments, other than ordinary oyster tongs commonly used within" "the waters of said county, such person or persons shall for each"

"offense be guilty of a misdemeanor and on conviction shall be"
"imprisoned in the county jail not less than one month, nor more"
"than six months, and be fined not less than one hundred dollars,"
"nor more than five hundred dollars, and any one found on any"
"of the public oyster reefs in said county, in possession of such"
"dredges, scoops, scrapes or drag or like instruments, such posses-"
"sion shall be *prima facie* evidence of the guilt of such person or"
"persons."

THE STATE OF MISSISSIPPI,
Harrison County.

I, F. S. Hewes, clerk of the chancery court of said county and State, and *ex-officio* clerk of the board of supervisors of Harrison county Mississippi, do hereby certify that the foregoing contains a full, true, correct and complete transcript of an order passed by the board of supervisors of said county and State at their August term A. D. 1893, making it unlawful to catch oysters from the public oyster reefs of Harrison county with dredges, scoops or drags, or like instruments, as the same remains and appear- of record in my office in Minute Book Number 4, page 289, of the minutes of the board of supervisors of Harrison county, Mississippi.

Given under my hand and official seal of said chancery court hereto affixed at my office in Gulfport, Miss., on this the 23rd day of June, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk of the Chancery Court and *ex Officio* Clerk of the
Board of Supervisors, Harrison County, Miss.

(Endorsed:) Louisiana *vs.* Mississippi D-c. 33 Filed June 25 '04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk. 1893.

2100 MISS. DOCUMENT No. 34.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the October Term, A. D. 1893.

THE STATE OF MISSISSIPPI,
Harrison County.

A regular term of the board of supervisors of said county was begun in and for said county on the first Monday of October A. D. 1893, being the 2nd day of said month, in the court house of said county, in Mississippi City, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, A. J. Bond, presi-

dent, and T. J. Stewart, members, F. S. Hewes, clerk of said board, and F. Seal, sheriff of said Harrison county.

A quorum of members not being in attendance, the sheriff adjourned the meeting of the board until 9 o'clock tomorrow morning.

TUESDAY MORNING, October 3rd, A. D. 1893.

The board met pursuant to adjournment.

Present: A. J. Bond, president, Phil McCabe, T. J. Stewart, and R. W. Hatten, members; F. Seal, sheriff of said Harrison county, and F. S. Hewes, clerk of the chancery court of said county, and *ex officio* clerk of said board.

"Ordered by the board that F. P. Lizana, be and he is hereby" "appointed oyster inspector of Harrison county, Miss., as required" "by chapter 96, Code 1892, and as such he shall perform the" "duties required of him by the order of this board made at the" "January term 1893 thereof, and recorded in this minute book on" "page 245 thereof, and that he shall receive for his services the" "amount fixed in said order."

"Ordered by the board that F. P. Lizana, oyster inspector of" "this county, be and he is hereby directed to notify J. H. Duggan," "or his agents and representatives on Cat island, who has appro-" "priated exclusively, contrary to law, the public oyster reefs" "within "Little bay," or "South bayou," at said "Cat island," to" "remove within ten days, after the service of said notice the ob-" "structions placed by him or them to the entrance of said "Little" "bay" or "South bayou" the said bay or bayou being a part of the" "navigable waters within the limits of Harrison county, Missis-" "sippi, It is further ordered that the clerk furnish the inspector" "with a copy of this order."

THE STATE OF MISSISSIPPI,
Harrison County.

I, F. S. Hewes, clerk of the chancery court of said county and State, and *ex officio* clerk of the board of supervisors, do certify that the foregoing contains a full, true, correct and complete transcript of the appointment of F. P. Lizana as oyster inspector of Harrison county, Miss., and an order that the oyster inspector give notice to J. H. Duggan or his agents on Cat island to remove obstructions placed by him to the entrance of "Little bay" or "South bayou," as the same appears and remains of record in my office in Minute Book No. 4, page 312, of the minutes of the board of supervisors of Harrison county, at their October term, 1893.

2101 Given under my hand and official seal at Gulfport, Miss., this the 23rd day of June, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk Chancery Court & *ex Officio* Clerk
Board of Supervisors.

(Endorsed:) Louisiana *vs.* Mississippi Doc. 34 Filed June 25/04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk. 1893

2102 MISS. DOCUMENT No. 35.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the November Term, A. D. 1893.

THE STATE OF MISSISSIPPI,
Harrison County.

A regular term of the board of supervisors of Harrison county, State aforesaid, was begun and held in and for said county, on the first Monday of November A. D. 1893, being the 6th day of said month, in the court house of said county, in Mississippi City, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, A. J. Bond, president, Phil McCabe, T. J. Stewart, John Scarborough, and R. W. Hatten, members, F. Seal, sheriff of said Harrison county, and F. S. Hewes, clerk of the chancery court of said county and *ex officio* clerk of said board.

"Ordered by the board that Lopez and Dukate be allowed to"
"examine the condition of the oysters, on the oyster reefs of this"
"county, and may use the dredge boat in the examination thereof"
"for two days during the month of November, 1893.

THE STATE OF MISSISSIPPI,
Harrison County.

I, F. S. Hewes clerk of the chancery court of said county and State and *ex officio* clerk of the board of supervisors of said county, do certify that the foregoing contains a full, true, correct and complete transcript of an order of the board of supervisors of said county of Harrison adopted at their November term 1893, allowing Lopez and Dukate to examine the oyster reefs of this county and the condition of the oysters as the same appears and remains of record in my office in Book No. 4, page 321, of the Minutes of the Board of Supervisors of Harrison County, Mississippi.

Given under my hand and official seal of said chancery court affixed at my office in Gulfport on this the 23rd day of June, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk of the Chancery Court and *ex Officio* Clerk of the Board of Supervisors of Harrison County, Mississippi.

(Endorsed:) Louisiana *vs.* Mississippi Doc. 35 Filed June 25 '04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the December Term, A. D. 1893.

THE STATE OF MISSISSIPPI, }
Harrison County. }

A regular term of the board of supervisors of Harrison county, State aforesaid, was begun and held in and for said county, on the first Monday of December, A. D. 1893, being the 4th day of said month, in the court house of said county in Mississippi City, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, A. J. Bond, president, Phil McCabe, T. J. Stewart, John Scarborough and R. W. Hatten, members, F. Seal, sheriff of said Harrison county, and F. S. Hewes, clerk of the chancery court of said county and *ex officio* clerk of said board.

"Ordered by the board that the following ordinance be and is" "hereby adopted."

"1st—It is ordered by the board of supervisors of Harrison" "county that hereafter it shall be unlawful for any person to fish" "or take oysters from the waters of Harrison county in water" "under fourteen (14) feet in depth, with a dredge, scoop, drag, or" "other like instrument except ordinary oyster tongs."

"2nd—It is further ordered that no oysters shall be fished or" "taken from the waters of said county with such dredge, scoop or" "drag between the first day of May and the first day of November," "in any year."

"3rd—It is further ordered that no oysters shall be fished or" "taken from the waters of said county with any such dredge," "scoop, or drag except within the following places and limits," "towit:—Pass Marion channel, Cat Island channel, and the waters" "north and north west of Cat Island spit. Citizens of Missis-" "sippi and none others may take or fish oysters as hereinbefore" "provided."

"4th—Any person violating any of the provisions of sections" "(1, 2, or 3) one, two or three, of this ordinance shall be punished" "by a fine of not less than one hundred dollars, and not more than" "five hundred dollars."

"5th—It is further ordered that the ordinance adopted by this" "board at its August term 1893, prohibiting the taking or fishing" "of oysters in the waters of Harrison county, with such dredge," "scoop or drag, which ordinance is recorded in Minute Book No." "4, page 289. "of the proceedings of the board of supervisors of" "Harrison county, be and the same is hereby repealed."

"Ordered by the board that the ordinance adopted by this board"

"on the 9th day of January, 1893, and recorded in this book, on"
"page 245, defining the duties of the oyster inspector be and the"
"same if hereby amended by striking out from said ordinance the"
"following words, on the 10th, 11th and 12th lines of the same,"
"towit:—" And it is further ordered that the expenditures author-"
"ized above shall not exceed the receipts provided for in the"
"oyster ordinance."

2104 THE STATE OF MISSISSIPPI,
Harrison County.

I, F. S. Hewes, clerk of the chancery court of said county and State, and *ex officio* clerk of the board of supervisors of said county, do hereby certify that the foregoing contains a full, true, correct and complete transcript of the following order and ordinance, towit:—An ordinance adopted by the board of supervisors of Harrison county at their December term, 1893, regulating dredging and the depth thereof and places where there shall be no dredging, as the same appears and remains of record in my office in Book No. 4, page 326 of the minutes of the board of supervisors; also, an order adopted by the board at said December meeting thereof amending an ordinance adopted by the board on January the 9th 1893, and recorded in Minute Book Number 4, page 245 thereof, by striking out certain words from said ordinance as appears from the above, as the same appears and remains of record in my office in Minute Book No. 4, page 328 of the minutes of the board of supervisors of Harrison county, Miss.

Given under my hand and official seal of said chancery court affixed at my office in Gulfport, Miss. on this the 23rd day of June, 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk of the Chancery Court and *ex Officio* Clerk of the Board of Supervisors of Harrison County, Miss.

(Endorsed:) 1893. Louisiana *vs.* Mississippi Doc. 36 Filed June 25/04, Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2105 MISS. DOCUMENT No. 37.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the February Ter-, A. D. 1894.

THE STATE OF MISSISSIPPI,
Harrison County.

A regular term of the board of supervisors of Harrison county, State aforesaid, was begun and held in and for said county, on the first Monday of February, A. D. 1894, being the 5th day of Feb-

ruary, 1894, in the court house of said county, at Mississippi City, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, A. J. Bond, president, Phil McCabe, T. J. Stewart, John Scarborough and R. W. Hatten, members, F. Seal, sheriff of said county, and F. S. Hewes, clerk of the chancery court of said Harrison county and *ex officio* clerk of said board.

" It is ordered by the board that the ordinance for the protection "
" of the public reefs of Harrison county, Mississippi, passed at the "
" January 1893 meeting of this board be amended by adding the "
" following: " Be it further ordered that oysters culled so that they "
" do not contain more than ten per cent. of small oysters and shells "
" shall be deemed as culled according to the requirements of this "
" ordinance. "

THE STATE OF MISSISSIPPI, }
Harrison County. }

I, F. S. Hewes clerk of the chancery court of said county and State, and *ex officio* clerk of the board of supervisors of said county, do hereby certify that the foregoing contains a true, full correct and complete transcript of an amendment to an ordinance passed at the January 1893 meeting of the board of supervisors, as the same appears above, and as the same appears and remains of record in my office in Minute Book Number 4, page 348 of the minutes of the board of supervisors of Harrison county, Mississippi.

Given under my hand and official seal of the said chancery court hereto affixed at my office in Gulfport, Mississippi, this the 23rd day of June, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk of the Chancery Court and *ex Officio* Clerk of the
Board of Supervisors of Harrison County, Miss.

(Endorsed:) Louisiana vs. Mississippi. Doc. 37 Filed June 25/04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk. 1894.

2106 MISS. DOCUMENT NO. 38.

Minutes of the Board of Supervisors of Harrison County, Mississippi, at the September Term, A. D. 1892.

THE STATE OF MISSISSIPPI, }
Harrison County. }

A regular meeting of the board of supervisors of said county of Harrison, begun and was held, in and for said county, at the court house of said Harrison county, State aforesaid, on the first Monday

of September, A. D. 1892, being the 5th day of said month, the same being the time and place designated by law for holding said meeting of said board.

Were present and in attendance on said board, A. J. Bond, president Phil McCabe, John Scarborough, and R. W. Hatten, members, F. Seal, sheriff of Harrison county, and F. S. Hewes, clerk of the chancery court of said county and *ex-officio* clerk of said board.

"James Thomas, C. F. Theobald and W. K. M. Dukate, composing the special committee appointed to make rules and regulations for the protection of the public oyster reefs of this county, submitted the following ordinance for approval by this board, which said ordinance having been duly considered is hereby approved and adopted by this board to be enforced and respected as provided by law, to wit. An ordinance for the protection and preservation of the public oyster reefs of Mississippi, lying within the borders of Harrison county, and to create a revenue to enforce the same."

"SECTION 1ST. It shall be unlawful for any person, or persons, to ship or carry beyond the limits of the State of Mississippi, by any boat or water craft, any oysters taken from any public reef in the waters of Harrison county, in said State, while the same are in the shells; or to take or catch any oysters from any public reef in said county, to be so shipped or carried beyond the limits of the said State."

"SECTION 2ND. It shall be unlawful for any person to take from the natural beds within the waters of this county any oysters between the first day of May and the first day of September of any year, except for planting purposes and local consumption."

"SECTION 3RD. It shall be unlawful to take from any public reef in the waters of said county, any oysters the shells of which are less than two and one half inches in length, except for planting purposes and all oysters taken for any other purpose shall be culled so that there will not be more than four oysters in any one bunch, and they shall be culled free from all dead and empty shells and young and unmarketable oysters, which shall be left on the reefs where they are taken; provided that such young and unmarketable oysters may be removed or disposed of for planting purposes within the tide-waters of the State of Mississippi."

"SECTION 4TH. No person shall catch oysters on any public reef in the waters of said county (artificial beds excepted) without first procuring from the clerk of the circuit court of said county, a license for each boat to be used by him in catching or transporting oysters, which license shall expire one year after date; and in his application for such license he shall give the capacity of his boat, or boats, and their names, and it shall be unlawful for any boat, so licensed to carry or have on board at any time, a greater number of barrels of oysters than the capacity of such boat as stated in such license. All boats having a capacity of 200 barrels or more shall pay the sum of six dollars, and boats

" having a capacity of less than 200 barrels shall pay the"
2107 " sum of four dollars, for such license, and shall pay to the"
" said clerk fifty cents for each and every licence so issued:"
" Provided that no boats or vessel under one ton measurement shall"
" be subject to the provisions of this section; provided further that"
" no boats licensed by the board of supervisors of Hancock or Jack-"
" son county, shall not be required to pay an additional license in"
" this county."

" SECTION 5TH. That said clerk shall keep a record of all licenses"
" so issued and shall correctly number the same, and the person to"
" whom such license is issued shall cause such number and the"
" word licensed to be painted in red letters, not less than four"
" inches in size, in some conspicuous place on the boat for which"
" such license is issued. Said clerk shall immediately procure the"
" painting of the necessary blanks to carry out the provisions of"
" this section, and shall issue his receipts, carefully numbering"
" the same, which receipts shall stand in lieu of, and shall confer"
" on the holder thereof, all the rights and privilegss of, licenses"
" granted under this ordinance, until said clerk shall obtain"
" the necessary blanks when he shall immediately issue licenses"
" to all persons holding such receipts. The said clerk shall"
" receive all money arising from such licenses and shall pay the"
" same to the county treasurer, and such money so paid shall"
" create a fund, which fund shall be known and designated as"
" the oyster fund, and shall be appropriated by the board of"
" supervisors, in their discretion, in such manner as will best"
" secure the enforcing of this ordinance, and said fund shall"
" be used for no other purpose."

" SECTION 6TH. The sheriff, the several constables, and all other"
" officers having like powers, within the county of Harrison, shall"
" have the power at any time to go on board of any boat or vessel"
" being used in fishing oysters in the waters of said county and to"
" demand that the parties in control of such vessel, exhibit the"
" license of such boat to be used in fishing for oysters in said"
" waters, and it shall be unlawful for any person in control or on"
" board of such boat or vessel to refuse or fail to exhibit such"
" license to any such officer demanding the same for inspection."
" And it shall be the duty of the said sheriff, constables and other"
" officers to arrest, with or without process, any person or persons"
" violating any of the provisions of this ordinance, and to take"
" them before any magistrate or justice of the peace, or the mayor"
" of any incorporated town or city, in said county, for trial, and"
" every such magistrate, justice of the peace of mayor shall have"
" jurisdiction of all offenses committed in violation of this ordi-"
" nance."

" SECTION 7TH. Any person who shall violate any of the provis-"
" ions of this ordinance, shall on conviction be fined not less than"
" ten dollars for the first offense, and for the second offense not less"
" than twenty dollars, and be imprisoned in the county jail not"

"less than five days, and all persons so convicted shall stand com-"
"mitted until the fines and costs are paid."

"SECTION 8TH. When a prosecution under this ordinance shall"
"be commenced and prosecuted to a conviction upon the informa-"
"tion or complaint of any private person, and the officer or judge"
"trying the cause shall so certify on his docket, then in that case"
"such prosecutor shall be entitled to one half of the fine to be paid"
"to him by the officer collecting the same, upon the order of the"
"magistrate or judge trying the cause; the other half to be paid"
"in the county treasury."

"SECTION 10TH. This ordinance shall take effect and be in force"
"from and after the 10th day of September, 1892.

2108 THE STATE OF MISSISSIPPI, }
Harrison County. }

I, F. S. Hewes, clerk of the chancery court of said county and State, and *ex officio* clerk of the board of supervisors of the county of Harrison said State, do hereby certify that the foregoing contains a true, full, correct and complete transcript of an ordinance passed by the board of supervisors of Harrison county, Mississippi, at their September term A. D. 1892, being the fifth day of September, 1892, as the same appears and remains of record in my office in Minute Book Number Four, pages 210, 211 and 212 of the minutes of the board of supervisors of Harrison county, Mississippi.

Given under my hand and official seal of said chancery court hereto affixed at my office at Gulfport, Miss., this the 23rd day of June, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES,
Clerk Chancery Court and *ex Officio* Clerk of the
Board of Supervisors of Harrison County, Miss.

(Endorsed:) Louisiana *vs.* Mississippi. Doc. 38. Filed June 25/04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2109 Miss. Document No. 39.

Pilots' Laws, Rules and Regulations of Ship Island Harbor, Mississippi.

Ernest Desporte, Harbor Master.

Office: Biloxi, Miss.

Laws, Rules, and Regulations of Ship Island Harbor.

Laws of the State of Mississippi, Annotated Code 1892.

Chapter LIX.

An act authorizing the board of supervisors of each county, having a sea-port or harbor therein, to appoint a board of pilot commissioners, and amended by chapter 128, Laws of the State of Mississippi, passed at a regular session of the Mississippi legislature, held in Jackson, commencing January 7th, 1896, and ending March 24th, 1896.

Harbors.

Jurisdiction over Harbors.

Section 2252. The board of supervisors of each county, having a sea port or harbor therein, shall appoint three citizens of sufficient skill and knowledge in maratime affairs as a board of pilot commissioners, who shall have jurisdiction over the harbors and passes leading thereto of their respective counties, but the mayor and board of aldermen of the cities of Natchez, Vicksburg, and Greenville shall have jurisdiction of and be harbor commissioners for their respective harbors.

Commissioners to Keep Record of Their Proceedings.

Section 2253. The several boards of pilot commissioners shall keep a record of their acts and doings, which shall be public records, to be kept and preserved by the clerk of the board.

Terms of Office and Vacancies.

Section 2254. The term of office of pilot commissioners shall be four years, and upon the death, resignation, or removal from office of any commissioner the board of supervisors shall fill the vacancy.

2110 Oath and Bond: Pilot Commissioners to Act as Port Wardens.

Section 2255. The pilot commissioners are empowered to act as port wardens and to perform all duties of such. They shall, before entering on their duties, take an oath, (that prescribed by two hun-

and sixty-eight of the constitution) and give bond to be ap-
ed by the clerk of the chancery court of their respective counties
e penalty of one thousand dollars, conditioned for the faithful
ormance of their duties.

Harbors and Port Regulations.

CTION 2256. The pilot commissioners shall make and publish
eedful regulations for the government of the harbor and port,
may prescribe fines, penalties and forfeitures, and are empowered
force and collect the same.

es of Harbor Masters; Terms of Office; Oath and Bond; Fees.

CTION 2257. The pilot commissioners shall appoint a harbor
er, who shall pass the same examination as to proficiency re-
ed of pilots as to handling vessels, knowledge of the harbor and
orage of vessels therein. His term of office shall be two years.
hall take the oath of office required by section two hundred
sixty-eight of the constitution, and must give a bond to be ap-
ed by the pilot commissioners, in the penalty of one thousand
rs, conditioned for the faithful performance of his duty. The
or master shall have general supervision of the harbor and port,
r the direction of the pilot commissioners, and shall be entitled
harge the following fees, payable by the ship, steamship or
ig vessel to which service is rendered, viz: boarding fee, five
rs; moving fee, five dollars; superintending discharge of ballast,
exceeding three and one-half dollars a day for each day actually
ged.

Duties of Port Wardens; Preference to Present Pilots.

CTION 2258. The pilot commissioners, as port wardens, shall
control of the harbor and port, see that the harbor master and
s perform their duty, and that the regulations are carried out;
shall hold marine surveys and perform such other duties as
be required by the regulations and the character of their office.
shall, as soon as qualified, and at such other times as may be
ssary, examine the pilots acting as such, who have licenses, and
ersons who may make application to be licensed as pilots in all
ers pertaining to the management of vessels; also in regard to
knowledge of the channel and harbor where they wish to act.
pon examination they be found qualified to take command
which probably will enter the port and thoroughly familiar
the channel and currents of the harbor the pilot commissioners
first appoint and license the pilots heretofore appointed and
sed, and then such other persons of those qualified as are requi-
o perform the duties of pilot at that port and for a term of two
s, but the pilot commissioners shall have power to revoke the
se of any pilot or harbor master for misbehavior, neglect of duty,

drunkenness on duty or off duty, or incompetency, or any other cause detrimental to the interest of commerce and navigation. The
2111 board of commissioners shall require from each pilot satisfactory bond for the faithful performance of his duties.

Compensation of Officers and Compulsory Pilotage.

SECTION 2259. That the board of pilot commissioners shall receive the sum of ten dollars from each pilot and harbor master whom it examines, appoints and licenses. The fees allowed pilots for compulsory pilotage shall be so adjusted as not to burden shipping, and shall not in any case exceed four dollars nor be less than three and one-half dollars per foot, and all United States vessels of one hundred and fifty tons burden or less shall be subject to compulsory pilotage. The pilot commissioners of each city or county may fix the rate of pilotage which shall be paid by vessels entering and leaving their respective harbors, but in no case shall they fix the rate greater than that now provided by law. They shall also regulate the compensation and fees of harbor master and port wardens.

Pilots Licensed; Preferences.

SECTION 2260. In appointing pilots preference shall be given those persons who may have served an apprenticeship in this State with the pilots, if they pass the requisite examination.

Apprenticeship.

SECTION 2261. After the year eighteen hundred and ninety four a new applicant cannot be appointed to the position of pilot unless he passes the qualifications prescribed in this chapter and has served an apprenticeship with the pilots in this State.

Penalty for Piloting without License; Misconduct.

SECTION 2262. Any person or persons acting as pilots without being duly licensed shall be guilty of a misdemeanor and punished accordingly, and shall forfeit and pay to the pilot commissioners the sum of two hundred and fifty dollars for every day while so waiting, and that it shall be unlawful for any person or persons not licensed pilots by the Board of Pilot Commissioners of the State of Mississippi to interfere with the business of pilots by serving or assisting in piloting vessels through the harbor or passes in the gulf of Mexico except in cases of distress; and any person or persons violating the provisions of this section shall on conviction thereof be fined not less than one hundred dollars, in the discretion of the court trying the offenders, and the fine collected by this act shall be nor more than two hundred and fifty dollars, paid into the county treasury for school purposes.

Compensation of Pilots Detained in Quarantine; Penalty for Carrying Pilots to Sea.

SECTION 2263. In all cases where any pilot shall be detained in quarantine by reason of having boarded a vessel in the discharge his duty as a pilot, the vessel and her owners shall be required ay him three dollars per day during the time of his necessary ention in quarantine; but the provisions of this section apply to harbors or ports on the sea coast. If the master of any el carry off a pilot from any sea port he shall pay such pilot the sum of five dollars per day for every day the pilot is absent, and he shall further supply the pilot with provisions and accommodations as is usual for the maintenance of mas- of vessels and the master as well as the owner shall be liable the same; but if such vessels have laid to for the space of four rs, after crossing the bar, and a pilot boat did not appear to re- e the pilot, the claim shall not be allowed.

Quorum.

SECTION 2264. Any two of the pilot commissioners shall constitute norum for the transaction of business.

Terms of Office Not to Expire.

SECTION 2265. The terms of office of the present pilot commis- ers shall not expire until the end of the time for which they e appointed.

Special Laws Repealed.

SECTION 2266. All special or local laws providing for pilot com- ioners, limiting the number of pilots and requiring the serving n apprenticeship and relating thereto, are hereby repealed.

ilots' Rules and Regulations, Ship Island Harbor, Mississippi.

t a meeting of the board of pilot commissioners for Ship Island or, it was ordered by the board that the following rules and lations for the government of pilots, and protection of commerce Ship Island harbor, Mississippi, be and are hereby made and ted.

ule 1. That any licensed pilot who shall take or bring a steamer essel into port shall be entitled to take her out, and any other taking out such a steamer or vessel shall forfeit the full amount lotage to the pilot rejected, and the captain and owners thereof be bound to pay to the pilot rejected the fees as established by unless the master aforesaid shall show good cause to the con- , which shall be satisfactory to the board of pilot commissioners. all be the duty of the master of every vessel to give notice to

said pilot before going ashore to clear his vessel, and get from him a bill for pilotage; if such notice cannot be given personally it shall be given by hoisting the jack on the foremast head twenty four hours before going ashore. That all vessels being ready for sea are required to pay their pilotage on shore at Biloxi.

Rule 2. That all steamers or vessels entering said harbor, or leaving the same, shall be subject to compulsory pilotage, and shall pay to the first licensed pilot who shall speak and offer his service to any steamer or vessel entering or leaving said harbor at the rate of four dollars per foot, unless they be United States vessels of one hundred and fifty tons burden or less.

2113 Rule 3. Pilots shall forfeit their authority as such for more than 36 hours' absence from their several bars, except in case of sickness, or when absent in discharge of duty.

Rule 4. That whenever any vessel is ready to leave the harbor the pilot who brought her in shall have notice, and if such notice cannot be given personally it shall be given by hoisting a jack at the fore masthead twenty-four hours before leaving; when, if the pilot signalized does not come on board, the master may take the first pilot that may offer.

Rule 5. If a master of a vessel shall detain a pilot on board, the wind and weather permitting his going to sea, such pilot shall be entitled to five dollars for each day so detained.

Rule 6. No pilot shall be interested, directly or indirectly, in the earnings of more than one pilot boat, or more than one partnership of pilots. No combination or partnership of pilots shall exist unless sanctioned by the board of pilot commissioners. Any pilot violating this rule may be deprived of his license and forfeit a sum to be determined by a majority of the commissioners.

Rule 7. Any pilot bringing a vessel into the harbor who shall fail to bring such vessel to, during the existence of quarantine regulations at quarantine buoy, unless visited by the port physicians, shall be deemed guilty of misconduct, and shall be either suspended from his duties as pilot or shall forfeit his license.

Rule 8. The pilot commissioners shall have power to revoke the license of any pilot for misbehavior, neglect of duty, or drunkenness, or any other cause detrimental to the interest of commerce or navigation.

Rule 9. Any person who shall act as a pilot for any of the passes leading into said harbor without a license from the board of pilot commissioners shall be fined not less than one hundred dollars nor more than three hundred dollars for each and every offense, recoverable before any court of competent jurisdiction in this State, said fine to be paid for the benefit of the common school fund of this State.

Adopted October 6, 1894.

Rule 10. The pilot association shall assign to each boat a full complement of pilots—not less than three—but subject to have more or less, as may be sanctioned or approved by the pilot commissioners.

le 11. It shall be the duty of the captain of the pilot boat or aptain of the watch, to report to the chairman any and all who shall be absent from duty during the week they are ed to duty.

le 12. A pilot guilty of intoxication or the excessive use of in- ting liquors, shall be suspended or have his license revoked, e commissioners may adjudge.

le 13. A pilot, while on his business *a* a pilot, found guilty of abusive or insulting language or guilty of threatening con- shall be suspended or have his license revoked, as the commis- s may adjudge.

le 14. Whatever charges are preferred against a pilot the presi- shall furnish to said pilot a copy of the charges and written of the time and place of the investigation. Said pilot shall the right to be represented by counsel. At least seven days' shall be given to said pilot.

le 15. Any pilot, against whom charges of intoxication or con- nbecoming a pilot, either when on or off duty, shall be proven to the satisfaction of the commissioners, shall be punished by suspension or by revocation of his license at the discretion of the commissioners.

e 16. Should a vessel take the ground or meet with any acci- hile in charge of a pilot, the said pilot shall report the same president, or at the office of the board, or secretary, within -four hours after said accident shall have occurred.

e 17. Suspension beyond thirty days, cancellation or revoca- license of pilot shall be made by the commissioners only, at etings for that purpose.

e 18. A pilot during his term of suspension shall not partici- the profits or earnings of any other pilot or pilots, associa- company of pilots, and any pilot or pilots who shall pay or any part of the earnings or profits as above stated during uspension shall be subject to a forfeiture of his or their

e 19. No pilot or pilots shall receipt any captain or owner of ssel, directly or indirectly, for a greater amount of money ey actually have received for services rendered, a violation of le will subject said pilot or pilots to thirty days' suspension; le will also apply to harbor masters.

e 20. All captains of pilot boats are required to make a report ecretary of the board of pilot commissioners on the first day e and the first day of January each year of all vessels boarded boat during said time; said report shall be made with care curacy, making a correct report of anything out of the ordi- ne of duty. The captain is compelled under penalty to report lect of duty on the part of the pilots under him; this report body only such vessels as are loaded and sailed from Ship harbor.

e 21. All pilots shall be and are hereby required to register

the names, tonnage and official numbers of their respective pilot boats with the secretary of the board of pilot commissioners.

Rule 22. All vessels engaged in the business of piloting at the entrance to Ship Island harbor shall carry each a black number of not less than three feet in length displayed to view, such number to be designated by the board of pilot commissioners; and the secretary shall issue a certificate of number to each vessel so employed; and any piloting done in a vessel not so numbered and registered as a pilot vessel will not be recognized by this board, except in case pilots are compelled to use the small boats belonging to their pilot vessels, such boats to bear the corresponding numbers of their respective pilot vessels on each side of the bows; and any licensed pilot found piloting in a vessel not numbered shall forfeit his license.

Rule 23. No vessel or boat engaged in the business of piloting at the entrance to Ship Island harbor shall be engaged in any other traffic nor as a pleasure or excursion boat, while employed as a pilot boat on duty.

Rule 24. Pilots are required to take all vessels entering Ship Island pass to the northward of the quarantine turning buoy or buoys lying between the pass and the quarantine anchorage, unless expressly permitted to do otherwise in any particular instance by the quarantine officer of the port.

Adopted April 15, 1898.

H. LIENHARD,
R. McINTOSH,
W. K. M. DUKATE,
Commissioners.

2115 Rules and Regulations for Harbor Masters of Ship Island Harbor.

SECTION 1. It shall be the duty of the harbor master to visit all vessels upon their arrival in this port and to designate their anchorage ground and berth; to inform the master or captain of the rules and regulations of the port, and to attend to the enforcement of the same; to cause all ballast to be discharged and deposited as ordered by this board and to render such other and further services in the execution of his office as may be necessary, or which shall be required of him by the master of such vessels, also to move all vessels that are to be moved in the harbor of Ship island, and the pilots are not to move any vessel at anchor in the harbor of Ship island, except to take them to sea or in case of distress, unless requested by the harbor master.

SECTION 2. It shall be the duty of the master of every vessel arriving at Ship Island harber in ballast, to report the same immediately to the harbor master, whose duty it shall be to cause the said vessel to be discharged and the said ballast to be deposited at such place as the board of pilot commissioners may designate in

ter not more than six feet deep at low water, and the harbor mas- shall not move any vessel from the ballast ground to her landing th with more than fifty tons of ballast on board, said ballast may discharged from the landing berth.

ECTION 3. Any owner, master or person in charge of any vessel o shall permit, allow or cause any ballast to be discharged or own overboard from such vessel into the waters of Ship Island bor shall be liable to a fine of one hundred and fifty dollars for first offense and a fine of one thousand dollars for the second and h subsequent like offense, to be recovered before a court of com- ent jurisdiction; and the vessel from which said ballast may e been discharged and thrown overboard shall be liable to be ceeded against to recover the payment of said fines.

ECTION 4. The harbor master shall be entitled to a fee of five lars on boarding each vessel, three dollars and fifty cents per day le superintending the discharge of ballast, and for each service dered at the request of the master a like fee of five dollars, and dollars and fifty cents for each dispute or disagreement between sters of vessels settled by him. And for each removal $5 and for oring vessels $5 each.

ECTION 5. All difficulties and disputes arising between masters of sels to which any one of the rules and regulations may apply ll be adjusted and settled by the harbor master, with the right ppeal from the decision of the board of pilot commissioners or a ority of them.

ECTION 6. All lighters transporting ballast from vessels in Ship nd harbor shall have bulwarks of sufficient height to fully pre- t the spilling of such ballast overboard; and any lighter spill- or discharging such ballast into the waters of the harbor shall fined not more than five hundred dollars and not less than nty-five dollars.

ECTION 7. All ballast shall be deposited on the north side of p island and north side of Cat island in six feet of water at low tide, provided said ballast can be deposited in such depth of 6 water as is included in a regular buoyed and defined ballast ground, and in accordance with section 2, rules and regula- s.

ECTION 8. No person shall be employed or retained as a harbor ster for Ship island who has an interest, directly or indirectly, in ballast lighter He shall employ a deputy when three or more sels are engaged in discharging ballast.

ECTION 9. The harbor master shall act in the interest of no bal- lighter, stevedore or other person having business or intercourse h a vessel in said harbor, but shall confine himself to the duties aid office.

ECTION 10. The harbor master shall at his individual expense nly mark and define and maintain at all times buoys showing northwest and northeast limits of the established ballast ground Ship island, the said buoys to be placed in ten (10) feet of water

and all lighters shall discharge their ballast on the inside of said buoys and, as provided in section 2, failure so to do to subject the masters and owners to the penalties prescribed in section 7.

SECTION 11. The harbor master shall be liable for the acts of his deputy, and for violating any of the foregoing sections (applying to the harbor master or his deputy) shall be fined upon conviction in a sum not less than ten dollars for each offense and for repeated violations subject himself to suspension and removal from office.

SECTION 12. Should the harbor master fail or neglect to report to the pilot commissioner any and all violations of sections 3, 6 and 7 of these rules he shall at once be suspended, and upon conviction, be fined and removed from office.

Adopted October 6, 1894.

H. LIENHARD,
R. McINTOSH,
W. K. M. DUKATE,
Commissioners.

List of Pilots.

Regularly Licensed for Ship Island Harbor Pass and All Other Passes Leading into the Same.

J. Lewis,
Fritz Abbley,
L. R. Bowen,
L. Llado,
F. D. Moran.
H. C. James,
J. H. Stilphen,
M. A. Scarlsorough,
J. E. Lewis,

ERNEST DESPORTE,
Harbor Master; Office, Biloxi, Mississippi.

(Herald Job Print, Biloxi, Miss.)

(Endorsed:) Louisiana vs. Mississippi Doc. 39. Filed June 25 '94. Wm. D. Bullard, commissioner. Office Supreme Court U.S. Filed Mar. 13, 1905. James H. McKenney, clerk.

217 MISS. DOCUMENT No. 40.

Act of Congress Approved February 20th, 1811, Providing the Conditions upon which Louisiana Might be Admitted into the Union.

Gayarre's History of Louisiana under American Domination, Pages 264 and 265.

218 Act of Congress Approved February 20th, 1811, Providing the Conditions upon which Louisiana Might be Admitted into the Union.

Gayarre's History of Louisiana under American Domination, Pages 264 and 265.

"The conditions annexed to this grant of authority were; That
he constitution should be republican and consistent with the Con-
stitution of the United States; that it should contain the fundamen-
al principles of civil and religious liberty; that it should secure to
he citizen the trial by jury in all criminal cases, and the privilege
f the writ of *habeas corpus* conformable to the provisions of the
onstitution of the United States; that the laws enacted by the new
tate should be promulgated, and all its records of every description
reserved, and its judicial and legislative written proceedings con-
ucted, in the language in which the laws and the judicial and
egislative proceedings of the United States were published and con-
ucted; *that the said convention should provide by an ordinance, irrev-
cable without the consent of the United States, that the people inhabit-
g the said Territory agreed and declared that they forever disclaimed
right or title to the waste or unappropriated lands lying within the
id Territory; that the same should be and should remain at the sole
d entire disposition of the United States;* that each and every tract
land sold by Congress should remain exempt from any tax laid
order or under the authority of the State for any purpose what-
er for the term of five years from and after the respective days of
sales thereof; that the lands belonging to citizens of the United
tes residing without the said State should never be taxed higher
an the lands belonging to persons residing therein; and that no
es should be imposed on lands the property of the United States;
d that the River Mississippi, and the navigable rivers and waters
ding into the same, or into the gulf of Mexico, should be common
lways and forever free, as well to the inhabitants of the said State
o other citizens of the United States, without any tax, duty, im-
t, or toll therefor imposed by the said State.

The 4th section of the act declared that, in case the constitution
the State to be created should not be disapproved by Congress
their next session, the said State should be admitted into the
on upon the same footing with the original States.

And at pages 274 and 275, the same historian says: "The convention having assented to all the stipulations imposed by the Federal Government as a preliminary conditions to the framing of a constitution and State government for the Territory of Orleans, and the constitution having been adopted by a unanimous vote, two delegates, Messrs. E. Fromentin and A. B. Magruder, were elected to carry to Washington city, and lay before the proper authorities, the constitution, and the other acts of the convention, with special instructions to urge the speedy action of Congress, and with full power to give all necessary explanations. Two thousand dollars were allowed to each for their expenses."

"The convention adjourned *sine die* on the 28th of January 1812, after having adopted all the provisions which were deemed expedient to carry the constitution into practical effect, should it be approved and sanctioned by Congress.

Here is the preamble of the constitution: "We, the representatives of the people of all that part of the territory or country ceded under the name of Louisiana, by the treaty made at Paris, on the 30th day of April, 1803, between the United States and France, contained in the following limits, towit; beginning at the mouth
2119 of the River Sabine, thence by a line to be drawn along the middle of said river, including all its islands, to the thirty-second degree of latitude—thence due north to the northernmost part of the thirty-third degree of north latitude—thence along the said parallel of latitude to the River Mississippi—thence down the said river to the River Iberville, and from thence along the middle of the said river and Lakes Maurepas and Pontchartrain to the gulf of Mexico—thence bounded by the said Gulf to the place of beginning, including all islands within three leagues of the coast—in convention assembled by virtue of an act of Congress entitled: An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of said State into the Union on an equal footing with the original States and for other purposes—in order to secure to all the citizens thereof the enjoyment of the right of life, liberty and property, do ordain and establish the following constitution or form of government, and do mutually agree with each other to form ourselves into a free and independent State, by the name of the State of Louisiana."

(Endorsed:) Louisiana vs. Mississippi Doc. No. 40 Filed June 25th 1904. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney clerk.

Miss. Document No. 41.

Record Oyster Boat Licenses.

Account of Amounts Received.

..., Clerk Circuit Court, in Account with Oyster Fund, Harrison County, Mississippi.

Owner's name.	Name of boat.	Cap. in bbls.	Am't rec'd.
Thomas Morrison	Schr. E. Glennan	130	$4.00
Lopez, Dunbar's Sons & Co.	Schr. Corine	200	6.00
" " " "	" C. W. Makie	"	"
" " " "	" C. Olivari	175	4.00
Lopez & Dukate	" Schrimp	200	6.00
" "	" Emma Hand	200	6.00
L. Lopez	" Castelar	150	4.00
Lopez & Cox	" North America	200	6.00
W. Gorenflo	" Nymph	200	6.00
" "	" Clara Isabela	150	4.00
M. Giurvich & Co	" Martha C	120	4.00
Frank Cuzzi	" Frank Cuzzi	120	4.00
Marco Niccovich	" Orion A	170	4.00
Dominic Dulicich	" Mississippi C	200	4.00
William M. Rush	" Rush	120	4.00
Antonia Silvestrich & Co	" Four Sisters	120	4.00
Biloxi Canning Co	" Alphonse	115	4.00
" "	" Clementine	115	4.00
" "	Sloop St. Helena	90	4.00
" "	" Gesv Clara	90	4.00
E. Westbrook	Schr. Lady Thorn	150	4.00
J. Carson	" Mystery	175	4.00
J. Childers	" Italy	120	4.00
Edward Bourge	Sloop Sea Bird	40	4.00
William Parker	" Edna	75	4.00
" "	" Elnora	70	4.00
F. Stojcich	Schr. Della	160	4.00
J. Ford	" Anne	45	4.00
J. Musich	" Maggie	50	4.00
Louis Schraff	" Fly	60	4.00
D. Giubisich	Schr. Garibaldi	240	6.00
Paid county treasurer			
			$138.00
Francis Fornier	Schr. Loretta	130	4.00
Hormen Shoeman	" Garnet	300	6.00
J. T. Mayberry	" Alert	195	4.00
Louis Romard	Lugger Rosalie	175	4.00
" "	Schr. Gypsy	150	4.00
Antonia Vergini	" Ida	198	4.00
Joana Forgia	" Young America	100	4.00
Engine Rhine	" New Hope	150	4.00
C. G. Charlot	Sloop Uncle Joe		4.00
S. Christovich	Schr. Lara C	175	4.00
A. Burnicich	" Bella Chersina	250	6.00
A. Balius	" Addie	99	4.00

MISS. DOCUMENT No. 41—Continued.

Date.	Owner's name.	Name of boat.	Cap. in bbls.	Am't rec'd.
Oct. 5	C. Fountain	Schr. Adeiona	100	$4.00
" 6	V. D. Gregoria	" American Eagle	240	6.00
" "	Jas. Charlot	" Centenial	200	6.00
" "	H. S. Piernas	" Hennettapp	160	4.00
" "	Peter Farve	" St. Peter	170	4.00
" 6	Prandaus	Sloop Euphrise	45	4.00
" "	J. Kander	Schr. Lara E.	125	4.00
" "	Geirgio Ziz	" Rosa Bell	100	4.00
" "	William Manuel	" Mary A. Manuel	185	4.00
" "	J. Cartson	Sloop Ticoon	125	4.00
" "	F. Taconie	Schr. Henry Western	250	6.00
" 13	D. W. Barnes	Sloop Rhody	75	4.00
" "	Henry Clay	Schr. Lucena	100	4.00
" 17	N. Elenterius	" Violet	135	4.00
" "	J. Lassale	Sloop Swan	65	4.00
" "	A. Mora	Schr. Dora	120	4.00
" "	J. Cocham	Sloop Monta Christo	125	4.00
" "	J. Allen	" St. Charles	100	4.00
" 18	A. Perez	Schr. Antonia T., Jr	150	4.00
" "	G. Desport	" Natide	150	4.00
" "	M. Stanovich	" Katye R.	170	4.00
2122				
1892.				
Oct. 19	B. A. Ramsey	Schr. Alice Carney	400	6.00
" "	E. Tiblier	" Olivira T.	75	4.00
" 20	Strong & Nelson	" Mable Nelson	300	6.00
" "	M'Castner	" Undine	250	6.00
" "	T. P. Nelson	Sloop Olive	100	4.00
" "	R. Nicase	Schr. Odelia	150	4.00
" 21	R. L. & J. W. Fulford	" J. E. Hooper	225	6.00
" "	C. Ellison	" Phœnix	100	4.00
" "	J. J. Childers	" Nels Johnson	225	6.00
" "	Thomas Sumrall	" Queen of the Fleet	225	6.00
" "	N. E. Lipscomb	" Falcon	240	6.00
" 22	M. F. Villar	" Katye Maria	600	6.00
" "	T. Ramon	" Grover Cleveland	180	4.00
" 24	M. Fountain	" Alina	350	6.00
" "	P. Benoit	" Julia B.	150	4.00
" 25	J. Beaugez	" Four Brothers	80	4.00
" "	G. Spandonie	" Letricite	250	6.00
" "	J. Labache	" L. Lopez	250	6.00
" 26	C. Williams	" Vallia Redding	275	6.00
" 27	J. Lacoste	" Edward Corrigan	225	6.00
" "	J. Goodier	" Santmaria	150	4.00
" 31	C. S. Sang	" Grace Ellena	250	6.00
	By amount paid county treasurer			$258.00
Nov. 1	A. Roduguez	Schr. Corra L.	120	$4.00
" 3	A. Orsivinaz	" Live Oak	190	4.00
" "	J. Gooseman	" Maggie	300	6.00
" "	D. Coovivich	Lugger Greyhound	190	4.00
" "	J. Lipscomb	Schr. Carrie	250	6.00
" "	J. Fountain	Sloop Oregon	150	4.00
" 4	H. Latimer	Schr. John J. Dovicol	400	6.00
" 5	Geo. T. Terry	" Julia	195	4.00

MISS. DOCUMENT No. 41—Continued.

Owner's name.	Name of boat.	Cap. in bbls.	Am't rec'd.
John Gellich	Schr. Eureka	11 tons	$5.50
Jacob Covaccerich	" Josamia	10	5.43
Carried for'd to next	page		$48.93
To amount brought forw'd			$48.93
John Aken	Schr. Bell of the Lake	Tons 13	6.50
L. Grou	" Emma	" 6	3.35
J. Catchard	Sloop Edward Julia	" 3	1.60
W. Jauglett	Schr. Pelican	" 10	5.25
W. W. Cruse	" Virginia	" 12	6.00
T. Harrub	" Francis Cox	" 8	4.37
J. B. Fountain	Sloop Virginia Cellia	" 3	1.85
Vade Lustrone	Schr. Irma	" 6	3.25
J. Green	Sloop Nellie	" 2	1.00
B. Lizana	Schr. Julia	" 2	1.00
W. Gilbert	" Elenora	" 2	1.00
J. W. Fulford	" Newton	" 9	4.88
Z. Wentzell	" Olena	" 4	2.00
C. Rally	" Two Brothers	" 7	3.50
J. Cabrich	" Union	" 6	3.05
V. Covavich	" Clara C	" 8	4.00
M. Bagattella	Sloop Marry D	" 5	2.90
M. Bagatta	Schr. Three Boys	" 4	2.35
M. Vurovich	" May	" 3	1.55
J. Bradford	" Ursen Minor	" 18	9.40
G. Fountain	" Convenient	" 4	2.45
By R. W. #601			$120.18
			120.18
F. D. & E. Moran	Lugger Flora	" 6	$3.00
J. Moran	Schr. Katye M.	" 10	5.00
J. B. Moran	" Emma P. Clements.	" 11	5.50
C. Ladiner	" Charles Patten	" 8	4.00
F. Fountain	Sloop Creole	" 2	1.20
. Senjon	Schr. Lake Flower	" 6	3.02
. Lopez	" Arazonia	" 4	2.00
. Lopez	" Mississippi	" 4	2.00
. Lopez	" Texas	" 4	2.00
Carried f'w'rd to next	page		$27.72
Am't brought f'r'd		Tons.	$27.72
. Lopez	Schr. Indiania	4	2.00
Labassa	" Ruby	12	6.10
. Nelson	" R. Seal	5	2.62
. Ladiner	" Sarah R. Runcie	5	2.98
Estappa	Sloop Morning Star	3	1.50
Crutte	Schr. J. Cruette	7	3.75
Ramon	" Willie R	8	4.00
H. Ramon	" Alethia	8	4.00
y T. R. #611			$54.67
			54.67

MISS. DOCUMENT No. 41—Continued.

Date.	Owner's name.	Name of boat.	Tons.	Am't rec'd.
1893.				
Jan. 23	J. Tomasavich	Lugger Danilo II	6	$8.12
1893.				
Feb. 13	P. Lutzzi	Schr. Louisa	3	1.50
" "	J. Taconi	" Julia	10	5.00
" "	H. McCaughan	" Maria	3	1.50
" "	Geo. Rudolph	Sloop Algerine	3	1.50
" "	Chas. Reeves	Cat rig Morning Star	3	1.50
" 16	F. Panilo	Schr. Antonietta	7	3.50
" "	F. Ranatzi	Lugger Australia	6	3.45
" 17	L. J. Rosi	" R. E. Lee	8	4.15
" "	J. Ivorsich	" L. Indeffand	5	2.84
" "	V. Bronzini	Schr. Josepha	7	3.50
" 18	G. Caladora	Sloop Catarina	8	4.00
" "	C. Burtma	Schr. Roma	4	2.25
" "	L. Manzey	Sloop Pauline	4	2.00
" 22	F. Abley	Schr. Philadelphia	15	7.64
" 28	L. Rodovich	Lugger St. George	6	3.41
				$50.86
2125	By R. W. # 621			50.86
1893.				
Mar. 1	H. Aken	Schr. Harriet	4	$2.25
" "	I. Brasher	" Rosalie M	6	3.25
" 8	W. A. Terrell	" Cinderella	8	4.31
" "	C. E. Graham	" Mexican Gulf	9	4.50
" 9	G. Serino	" Grazia Cerino	9	4.75
" "	S. Teskdo	Lugger Carmella	8	4.06
" 10	T. Masarich	" Y. Wallace	6	3.50
" 11	August Chersonde	" Leon	8	4.20
" 14	J. Mullholand	Schr. Lulia	7	3.50
" 15	A. Quargold *et al*	" Lausana	10	5.50
" 17	S. Lotritch	" Geno	8	4.45
" "	A. Lotritch	" Rosa L	7	3.85
" 22	C. Williams	" Andrew Perze	5	2.50
" 28	T. Todesca	" F. W. Elmer	7	3.80
				$54.41
1893.				
Apr. 3	R. Crutti	Sloop Volunteer	2	$1.00
" "	D. Randazer	Schr. Mary	9	4.60
" 6	A. Rossi	Lugger St. Augustine	6	3.00
" 7	C. Ryan	Schr. The Sisters	4	2.00
" 18	E. Coney	Sloop Tallstine	3	1.50
" 20	J. Barracco	Lugger Jophine	8	4.05
" "	Mrs. Russo	Schr. Salvadore Russo	8	4.50
				$20.60
May the 4th.	By R. W. # 646			(?) 26.55

MISS. DOCUMENT No. 41—Continued.

. Hewes, Clerk of Circuit Court, in Account with Oyster Fund, Harrison County, Mississippi.

Owner's name.	Name of boat.	Tons.	Am't rec'd.
W. Gorenflo	Schr. Clara Isabel	5	$2.75
Hugh Lanabe	Sloop Hattie D	2	1.00
M. Stanovich	Schr. Katye R	7	3.50
J. Canger	" Laura E	5	2.64
P. Farve	" St. Peter	7	3.90
A. S. Pumas	" Huretta	8	4.00
P. Prandana	Sloop Euphrise	3	1.50
M. Fountain	" Oregon	5	2.58
P. Lutz	Schr. Louisa	3	1.50
J. Thomasvich	Lugger Danilo II	6	3.13
F. Remon	Schr. Willie R	8	4.29
F. H. Remon	" Alethia	8	4.27
			$35.06
By R. W. # 693			35.06
V. Redding	Schr. Vallie Redding	12	$6.05
H. McCaughn	" Marier	3	1.50
Wm. Gorenflo	" Nymph	13	6.50
D. A. Ramsey	" Emma Hand	15	7.76
Gustave Pacquet	Sloop Wandaer	5	2.50
M. Bagattella	" Mary D	5	2.90
N. Clarisse	Schr. Gipsy	3	1.87
Muldarling	Cat rig Ranger	4	2.00
B. Boginiceh	Sloop Carline	4	2.00
E. Tibler Jr.	" Tycoon	4	2.00
" "	Schr. Olvia T	3	1.50
D. Gubisich	" Garibalda	8	4.34
J. W. Strong	" Grace Ellena	9	4.50
L. Lopez	" barge Texas	4	2.00
L. Lopez	" " Indiana	3	1.75
C. S. Strong	" Ellen Bruggs	19	9.50
Lopez & Dukate	Steamer Julis Elbert	21	10.50
Forw'd to next page			$69.42
William Rush	Schr. Rush	4	2.15
F. McConivich	" Union	6	3.00
Tony Tranto	Lugger Roselee	6	3.48
N. Elenterius	Schr. L. Lopez	12	6.00
			$84.05
By R. W. # 698			84.05
Joseph Musich	Sloop Maggie	3	$1.50
A. Vergilie	Schr. Harry Gerdes	6	3.44
W. H. Murphy	" Two Brothers	9	4.55
Frank Thompson	" Queen of the Fleet	12	6.47
Elisha Neison	" R. Seal	5	2.62
Antonio Silverstrich	" Four Sisters	5	2.50
V. D. Gregoria	" American Eagle	8	4.47
Seal & Tolliman	" Grover Cleavland	8	4.00
N. Winston	" Hard Task	4	2.00

Date.	Owner's name.	Name of boat.	Tons.	Am't rec'd.
Jan. 3	T. H. Allen	Schr. Newton	9	$4.50
" 12	William Johnson	" Nels Johnson	12	6.00
" 24	W. Wentzell	" O'Lena	4	2.42
" 24	Lopez Dunbar Sons & Co	" C. Olivari	8	4.00
" 25	R. J. Cuveas	Sloop Messenger	4	2.00
" "	Mrs. A. Stiner	Schr. Undine	8	4.25
" "	J. J. Childress	" Itlay	5	2.71
" "	Jonana Forgnia	" Young America	5	2.50
" 27	L. Lopez	Barg- Arizona	3	1.50
" "	L. Lopez	" Mississippi	3	1.50
" "	D. Covisivich	Lugger Grey Hound	9	4.75
Feb. 1	To R. W. # 704			$67.69
2128				67.69
1894.				
Feb. 1	A. Sellier & N. Dedaux	Victoria D	14	$7.00
" "	A. Moran	Schr. Dora	4	2.30
" "	M. Gurivich & Co	" Martha C	4	2.00
" "	M. Vuyovich	" May	3	1.53
" "	J. W. Bohn	" Lillie Armstrong	16	8.00
" "	J. W. Fulford	" J. C. Smith	8	4.34
" 10	Lopez & Dukate	" Shrimp	12	6.00
" 13	M. Ervin	" Ruby	12	6.10
" "	Strong & Nelson	" Mable Nelson	9	4.62
" 15	Vincient Covavich	" Clara C	8	4.00
" "	Frank Taconi	" Henry Webstor	9	4.98
" 17	W. N. Johnson	" Amethyst	13	6.50
" 20	P. Sotjcish	" Della	7	3.56
" 22	N. X. Lipscomb	" Falcon	10	5.00
" "	A. Bomsich	" Bella Chersma	11	5.00
" 24	M. Fountain	" Alma	11	5.50
" "	I. Bresha	" Roselee M	7	3.50
" 26	R. I. Lamuis	" Castelar	5	2.50
March 1	By receipt Wart # 709			$82.93
2129				82.93
1894.				
Mar. 1	F. Cuzzy	F. Cuzzy	4	$2.00
" 2	Joe. Catchot	Sloop Edward Julnis	2 1/2	1.25
" 5	" "	Schr. Odeia	5	2.50
" "	" "	Ca- rig Morning Star	2	1.00
" "	" "	Sloop Faulstin	2	1.00
" "	" "	Schrr. Edna	4	2.00
" 6	H. Brasha	" Superior	6	3.00
Mar. 5th	Less R. W. # 732			$12.75
				6.50
Apr. 6th	By R. W. # 732			$6.25
1895.				6.25
Mar. 2nd	Lopez & Dukate	Steamer Julius Elbert	29	$14.50
Apr. 9th	By R. W. # —			14.50
Nov. 4th	Lopez, L	Steamer Julius Elbert	22	$11.00

2130 THE STATE OF MISSISSIPPI, }
Harrison County. }

I, A. J. Ramsey, clerk of the circuit court of said county and as such *ex-officio* custodian of the records of oyster boat licenses issued by the circuit court clerk of the said county during the years 1892, 1893, and 1894, which said record remains in said office and in my custody, certify that the following pages are a true and correct copy taken from the official register or record of such licenses issued to boats operating in Harrison county during the said years, and that to the best of my knowledge, information and belief said licenses authorize said boats to operate 18 miles, from the shore southward.

Witness my signature at Gulfport, Miss., this the 23rd day of June 1904.

[Seal of the Circuit Court, Harrison County, Mississippi.]

A. J. RAMSEY,
Clerk of the Circuit Court.

(Endorsed:) Louisiana *vs.* Mississippi Doc. No. 41 for Miss. Filed Aug. 8/04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

131 MISS. DOCUMENT NO. 42.

Minutes of the Board of Supervisors of Jackson County, Mississippi, at August Term, 1893.

An Ordinance to Prevent the Taking of Oysters from the Public Reefs in the Waters of Jackson County, in the State of Mississippi, with Dredges.

SECTION 1. Be it ordered by the board of supervisors of Jackson unty that it shall be unlawful for any person or persons to dredge oysters in the waters of Jackson Co.

SECTION 2. Any person violating the provisions of this ordinance ll on conviction be fined one hundred dollars or be imprisoned the county jail for six months, or both, all persons so convicted ll stand committed until said fine and costs are paid, said fine e recovered before any court of competent jurisdiction, one half fine to be paid to the informer and the other half to be paid into county treasury.

ECTION 3. This ordinance to take effect from and after its adop-

TE OF MISSISSIPPI, }
County of Jackson, }

F. H. Lewis, clerk of the chancery court of Jackson county, issippi, and *ex-officio* clerk of the board of supervisors of Jack-

son county, and legal custodian of the records of said board, do hereby certify that the *following* is a true and correct copy of an order passed by the board of supervisors of Jackson county held in the town of Scranton, at the August term 1893, on the 10th day of August 1893, as will more fully appear from the minutes of said meeting of said board of record on page 556 of Minute Book No. 2 of the minutes of the board of supervisors of Jackson county, now on file in my office.

Witness my signature this the 5th day of August 1904.

[Seal of Chancery Court, Jackson County, Miss.]

F. H. LEWIS, Clk,
By FRED TAYLOR, D. C.

(Endorsed:) Louisiana *vs.* Mississippi. Doc. No. 42 for Miss. Filed Aug. 9, '04. —— ——, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

2132 MISS. DOCUMENT No. 43.

Ordered that the following ordinance be and is hereby adopted

An Ordinance for the Protection and Preservation of the Public Oyster Reefs of Mississippi Lying within the Borders of Jackson County and to Create a Revenue to Inforce the Same.

SECTION 1. It shall be unlawful for any person or persons to ship or carry beyond the limits of the State of Mississippi by boat or water craft any oysters taken from any public reef in the waters of Jackson county in said State while the same are in the shell or to take or catch any oysters from any public reef in said county to be so shipped or carried beyond the limits of said State.

SECTION 2. It shall be unlawful for any person to take oysters from the public reefs in this county during the months of May, June, July and August for any other purpose except for domestic use or local trade.

SECTION 3. It shall be unlawful for any person to take oysters from the public oyster reefs of this county without first culling them of all young and unmarketable oysters all oysters taken for planting purposes shall be culled of all dead and empty shells which shells shall be returned to the reef from which they were taken.

SECTION 4. It shall be unlawful for any person to catch oysters on any public reef in the waters of said county without first procuring from the clerk of the circuit court of said county a license for each boat to be used by him in catching or transporting oysters which license shall expire one year after date and in his application for license he shall give the correct ton-age of his boat or boats and

heir names and shall pay fifty cents per ton for such license and fty cents to the clerk of court for every license so issued and no oat under one ton measurement shall be subject to the provisions f this section, boats licensed by the board of supervisors of Harri- on and Hancock county shall not be required to pay additional cense in this county and no license shall be issued to any person ngaged in fishing oysters in this county who is not a resident citi- n of the State of Mississippi.

SECTION 5. The said clerk shall keep a record of all license- so sued and shall correctly number the same and the person to whom ch license is issued shall cause such number and the word license be painted in red letters not less than four inches in size in some nspicuous place on the boat for which such license is issued, said erk shall, immediately procure the printing of the necessary anks to carry out the provisions of this section the said clerk shall ceive all money arising from said license and shall pay the same the county treasurer and such money so paid in shall create a nd which fund shall be known and designated as the oyster fund d shall be appropriated by the board of supervisors in their dis- tion in such manner as will best secure the inforcing of this or- nance and said fund shall be used for no other purpose.

SECTION 6. All owners or persons in command of boats licensed fish oysters in Jackson county at any time when called upon to hibit said license by any county or municipal officer — comply h said request and upon the refusal of any owner or person in command of any boat to do so he shall be arrested by said 33 officer with or without process so demanding his license and be taken before any mayor or justice of the peace having isdiction in this county and on conviction shall be fined or im- soned as hereafter prescribed.

SECTION 7. Measure for oysters in Mississippi is as follows Stave asure demention bottom sixteen inches across inside top eighteen hes inside height nine and one half inches from center of bottom ide of center of top, three of these measures filled rounded with- heaping shall make one barrel of oysters all such measures d in this county shall be stamped by the measure of this county which service he shall receive fifty cents for each measure mped by him and it shall be unlawful for any person to sell ters by the barrel in any other measure than the stamped asure.

SECTION 8. Any person *which* shall violate any of the provisions his ordinance shall on conviction be fined not less than five dol- for the first offense and for the second offense not less than ten lars and be imprisoned in the county jail not less than ten days all persons so convicted shall stand committed until the fine costs are paid one half of said fine to be paid to the informer the other one half to be paid into the county treasury.

SECTION 9. This ordinance shall take effect and be in forced from after the 7th day of November 1892.

STATE OF MISSISSIPPI,
County of Jackson.

I, F. H. Lewis, clerk of the chancery court of Jackson county, Mississippi and *ex officio* clerk of the board of supervisors of said county, and legal custodian of the records of said board, do hereby certify that the foregoing is a true and correct copy of an order passed by the board of supervisors of Jackson county at November term 1892 held at the court house at Scranton said county, on the 7th day of November 1892, as will more fully appear from the minutes of said meeting of said board of record on page 520–523 of Minute Book No. 2 of the board of supervisors of Jackson county, now on file in my office.

Witness my signature this the 6th day of August A. D. 1904.

[Seal of Chancery Court, Jackson County, Miss.]

F. H. LEWIS, Clk,
By FRED TAYLOR, D. C.

(Endorsed:) Louisiana *vs.* Mississippi Doc. No. 43 for Miss. Filed Aug. 9 1904. —— —— commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

2134 MISS. DOCUMENT No. 44.

Minutes of the Board of Supervisors of Jackson County, Mississippi, at June Term, 1892.

Be it ordered by the board of supervisors of Jackson county:

1st. That it shall not be lawful for any person or persons to take, catch or remove oysters growing or being in the natural banks not having been planted or bedded there in any of the waters of Jackson county, with intent or for the purpose of carrying them out of Jackson county for sale or for planting or bedding out or for canning purposes.

2nd. If any person shall violate the foregoing order he shall forfeit the boats or vessels employed for the purpose, and shall be fined the sum of twenty five (25.00) dollars for the first offense and fifty ($50.00) dollars for the second offense, or imprisoned in the county jail for thirty days for each offense.

3rd. It shall be the duty of the sheriff or any constable of said Jackson county to seize the boats, vessels or their apparel and take in his possession such boats or vessels so unlawfully employed and carry them before a justice of the peace having cognizance of the case, and the case is to proceed to hearing as if by regular proceedings before the justice of the peace having jurisdiction thereof and if said person or persons have been adjudged guilty of the above offense they shall forfeit said boat or vessel to be sold by the sheriff

or legal officer and the proceeds after paying cost and expense shall go to the common school fund.

4th. This shall not apply to any persons who is a *bona fide* resident or shipper of Jackson county.

5th. It is further ordered that no persons, residents or non residents of this county shall *not* catch or remove any oysters in their natural banks, only for local consumption from the 1st day of May to the 1st day of September and any one violating this section shall be subject to the same penalty as provided in the 2nd section of this order.

STATE OF MISSISSIPPI, }
County of Jackson. }

I, F. H. Lewis, clerk of the chancery court of Jackson county, Mississippi, and *ex officio* clerk of the board of supervisors of Jackson county, and legal custodian of the records of said board, do hereby certify that the foregoing is a true and correct copy of an order *a* passed by the board of supervisors of Jackson county at a special term of said board held at the court house in the town of Scranton, in said county on the 2nd day of June A. D. 1885, as will more fully appear from the minutes of said meeting of said board of record on pages 76 and 77 of the Minute Book No. 2 of the minutes of the board of supervisors of Jackson county, now on file in my office.

Witness my signature on this the 6th day of Aug. A. D. 1904.

[Seal of Chancery Court, Jackson County, Miss.]

F. H. LEWIS, Cl'k,
By FRED TAYLOR, D. C.

(Endorsed:) No. 44 Miss. Louisiana *vs.* Mississippi Doc. No. 44 Miss. Filed Aug. 9, '04 —— —— commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905 James H. McKenney, Clerk.

35

MISS. DOCUMENT NO. 45.

Minutes of the Board of Supervisors of Jackson County, Mississippi, at September Term, 1884.

This day coming on for hearing the request of the citizens of this county for the protection and preservation of the oysters fish shrimp and game being produced in a state of nature within its bounds and the board of supervisors being satisfied that the same should be protected and preserved.

It is therefore ordered that no person or persons, who is not a *bona fide* resident of the county of Jackson shall hereafter be permitted or allowed to catch and market any oysters, fish, shrimp or

other game that may be taken or caught within the territorial limits of said county.

It is further ordered that in order to become a *bona fide* resident of said county within the meaning of this ordinance such person or persons must have been actual freeholders or householders for a space of six months.

It is further ordered that every breach of said ordinance shall be considered a misdemeanor and the person so offending shall be fined not less than twenty five dollars and not more than one hundred dollars or imprisoned for not less than thirty days for each offense, besides being subject to all the penalties now enacted by the statutes of this State.

It is further ordered that all oysters fish shrimp or game together with the boats, casts, seines and nets or other fishing tackle found in the possession of persons violating this ordinance shall be subjected to be sold to pay all cost and fines imposed upon them.

It is further ordered that this ordinance take effect from and after the first Monday in October 1884.

STATE OF MISSISSIPPI, }
County of Jackson. }

I, F. H. Lewis, clerk of the chancery court of Jackson county, Mississippi, and *ex-officio* clerk of the board of supervisors of Jackson county, and legal custodian of the records of said board, do hereby certify that the foregoing is a true and correct copy of an order passed by the board of supervisors of Jackson county at the September special term 1884, held at the court house in the town of Scranton, in said county on the 29 day of September 1884, as will more fully appear from the minutes of said meeting of said board of record on page 46 of Minute Book No. 2 of the minutes of the board of supervisors of Jackson county, now on file in my office.

Witness my signature, this the 6th day of August A. D. 1904.

[Seal of Chancery Court, Jackson County, Miss.]

F. H. LEWIS, Clk,
By FRED TAYLOR, D. C.

(Endorsed:) Louisiana vs. Mississippi Doc. No. 45 for Miss. Filed Aug. 9/04. —— —— commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

Rules and Regulations of the Board — Health of Harrison County, Mississippi, for the Year 1877.

Article 1.

The board of health shall meet at the court house, in Mississippi City, on the third Monday of each month, from March to November, and as often thereafter as the public health shall make such meetings necessary. Three members of said board constituting a quorum.

Article 2.

It shall be the duty of the board of health to supervise the administration of all the health laws of Harrison county, to examine into all cases of malignant, pestilential, infectious, and epidemic diseases, which may occur in said county, and the causes thereof; to examine into all such nuisances as may tend to endanger the health of the said county, and to take such steps as may be necessary for their removal; to exercise a general supervision over the sanitary regulations of all institutions, including hospitals, markets, prisons and public schools; to superintend all matters pertaining to quarantine and the quarantine physician and direct all measures of detention, disinfection and purification of vessels, cargoes and passengers, coming from ports against which quarantine may have been proclaimed.

SECTION 2. Whenever it shall appear to the board of health, that any pestilential or infectious disease has made its appearance in the county, said board shall take such measures as to them may seem expedient and requisite to prevent the spread of such diseases; and any person failing to comply with the requirements of the board of health in all such cases, shall forfeit and pay such fine as may be imposed by a court having competent jurisdiction, not to exceed one hundred and fifty dollars. That no person laboring under any contagious, infectious or other disease dangerous to the public health, shall be removed from one place to another without the permit of the board of health, under a penalty not to exceed one hundred and fifty dollars fine, or imprisonment, or both, at the discretion of the court imposing the same.

SEC. 3. It shall be the duty of every physician or other person practicing medicine in said county, to report to the board of health thereof, every case of small-pox, yellow fever, or other infectious, contagious or pestilential disease, which he may be called upon to treat within the limits of said county; said report to be made within twenty-eight hours after he shall have ascertained the character of the case, and to specify the name of the patient and the locality of the house in which such person is to be found; and, for every viola-

tion of this provision, the guilty party shall forfeit and pay a fine not to exceed one hundred and fifty dollars. That every citizen upon whose premises there may occur any case of small-pox, yellow fever, or other infectious or pestilential disease not under the charge of any physician, shall in like manner report the fact to the board of health. Under such penalty for failure so to do as a court, &c. may impose, not exceeding one hundred and fifty dollars.

2137 But whenever any disease has become epidemic, the board of health may at their discretion declare it unnecessary to report further cases.

SEC. 4. It shall be the duty of the board of health to open a pest-house for the treatment of paupers and indigent persons afflicted with pestilential or contagious diseases; to prescribe rules for its efficient management, and to furnish supplies and medical attendance to its inmates, which said supplies and medical attendance are to be paid for by said county.

Quarantine Regulations for the Ports of Pass Christian, Mississippi City, Biloxi, and Handsboro—All in Harrison County, Mississippi.

Quarantine.

Article 1.

Be it ordained, That there shall be established a strict system of quarantine to be enforced against all vessels arriving in the above enumerated ports, from any port or place where yellow, malignant or pestilential or infectious fever, or other infectious or dangerous diseases is prevailing; or, having any such person on board, suffering from such diseases. That this article shall only be in force when so proclaimed from time to time by the board of health and every proclamation shall define the length of time that it shall continue in force. That it shall be the duty of the quarantine physician and health officer, to attend at the quarantine station; to board all vessels entering the harbor of the respective ports above named; to fully examine into the condition of the vessels and cargo, and the health of all persons thereon; to examine as many of such persons on board, under oath, to learn and obtain any facts that he may deem essential and necessary; which oath he is hereby authorized to administer; to detain all vessels coming from any infected port or place, or that has any case of disease described in the first section of this article, on board, the cargo and every person on board, for any length of time that he may deem necessary or expedient; to direct such measures to be taken as may be necessary to purify the vessel, and supervise the same at the expense of the captain, owner or consignee of the vessel; to treat any person who may be sick of any malignant or infectious disease or fever; to sign all permits for vessels and persons to pass the quarantine, and all discharges for vessels or persons leaving the quarantine; without

which no vessels or persons shall be permitted to leave or pass the quarantine station.

And any person violating any of the quarantine regulations he, or the owner and captain, together with the vessel to which he may belong, or be a passenger, shall be fined such sum as a court of competent jurisdiction may impose, not exceeding one hundred and fifty dollars; or, by imprisonment, or both, at the discretion of the court.

That it is the duty of every person acting as a pilot, to deliver to the officer in charge of every vessel coming into the ports aforementioned, a copy of these regulations, or so much as may
2138 be wanted for the use of the vessel, of which the board shall have a sufficient number of copies printed.

During the existence of the quarantine, all pilots and other persons having charge of vessels entering the aforementioned ports, shall bring such vessels to anchor at the quarantine station; and no vessels shall leave such anchorage until it shall have been boarded by the quarantine physician, and shall have received permission from him to do so.

Every pilot or other person violating this section, shall be fined such sum as a court of competent jurisdiction may impose, not exceeding one hundred and fifty dollars, imprisonment or both.

That all persons who may receive medical treatment under this ordinance shall pay, for the use of the board of health, five dollars for each day of such treatment.

And where the persons so treated, shall be unable to pay the charge, the captain, owner or consignee of the vessel to which he may belong, shall pay the same.

That the word vessel, whenever used in this ordinance, shall extend to boats, steamers and watercrafts of every description.

That no vessel shall take on or discharge the cargo or ballast of any vessel at quarantine without a written permit from the quarantine physician, under such penalty as a court of competent jurisdiction may impose, not to exceed one hundred and fifty dollars on the owner, consignee or person in charge.

Rules.

That the quarantine station is hereby located by the board of health, at a place designated "the Lagoon," which is about four miles east of the light house, in Ship Island harbor.

Rule II. The quarantine physician shall, in every instance, determine the length of time a vessel shall remain at quarantine, and the time that all persons on board such vessels shall remain in quarantine.

Rule III. The quarantine physician shall make a monthly report on the third Monday of every month to the board of health of the number and class of vessels quarantined; the number of patients treated by him; the amount of fees collected, and all other information connected with the station as may be necessary and proper.

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Rule IV. All vessels at quarantine shall keep a flag at halfmast at the main during the day, and a lantern in the same position at night.

Any violation of these rules and regulations, shall be punished by a fine in such sum as a court of competent jurisdiction may impose, for the benefit of all parties concerned.

That it shall be the duty of the quarantine physician and any member of the board of health, to prosecute before a justice of the peace or circuit court, any person or persons violating any of the above and foregoing rules and regulations.

(Signed) G. N. SMITH, M. D.,
President of Board of Health.
RODERICK SEAL,
CHAS. L. LE ROUX, M. D.,
CHAS. PELAEZ, M. D.,
A. P. CHAMPLIN, M. D.,
Members of the Board of Health.

2139 STATE OF MISSISSIPPI, }
Harrison County. }

I, F. S. Hewes, clerk of the chancery court in and for the county and State aforesaid, do hereby certify that the above and foregoing is a true, correct and complete transcript of the rules and regulations of the board of health of Harrison county, Mississippi, for the year 1877, as the same remain on file in my office.

Given under my hand & official seal on this the 8th day of August, A. D. 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES, Clerk.

(Endorsed:) 1877. Louisiana *vs.* Mississippi Miss. Doc. 46 Filed Aug. 9/04 —— —— commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

2140 MISS. DOCUMENT NO. 47.

Quarantine Physician's Report.

HARRISON CO., MISS., July 22, 1878.

To the honorable board of health of Harrison Co., State of Miss.

GENTLEMEN: I have the honor to submit the following report of my labors as quarantine physician and health officer of Harrison Co. Miss.

Quarantine having been declared by your honorable body to be in force in this Co. on the 23d of April 1878, I immediately entered upon the discharge of my duties.

From the 23d day of April 1878 to the 22nd day of July 1878 inclusive, I boarded five vessels to wit: 3 barks—1 brig and 1 schooner—

The sanitary condition of the vessels boarded by me was good and all had clean bills of health with the exception of the barks "Formose" and "Mathusalem" whose bills of health were qualified by the statement that there *was* a few cases of small pox in Bordeaux at the time that said vessels left there.

Names of Vessels and Ports Whence They Came.

Bark "Formose" Bordeaux France. Bordeaux
Brig "Frontier" Pensacola U. S. Pensacola
Bark "Stadt Frankfurt" Brest France. Brest
Schooner Mollie Emma U. S. Matanzas
Barks "Mathusalem" Bordeaux France. Bordeaux

I desire to call the attention of your hon'ble body to the fact that yellow fever of a virulent type is now raging in several ports on the island of Cuba and the greatest diligence shall be exercised on my part to enforce the quarantine laws and make them effective so far as it lays within my power to do so.

Respectfully submitted your obed't serv't

CHAS. PELAEZ, M. D.,
Quarantine Physician & Health Officer,
Harrison Co., Miss.

Filed July 22d 1878
F. S. HEWES,
Sect. Bd. of H.

STATE OF MISSISSIPPI, }
Harrison County. }

I, F. S. Hewes clerk of the chancery court in and for the county and State aforesaid do hereby certify that the above and foregoing is a true correct and complete transcript of quarantine physician's report, filed July 22d 1878, as the same remains on file in my office.

Given under my hand and official seal this August 8th 1904.

[Seal of Chancery Court, Harrison County, Mississippi.]

F. S. HEWES, Clerk.

(Endorsed:) 1878 Louisiana vs. Mississippi Miss. Doc. 47 Filed Aug. 9 '04 —— —— commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

2141 MISS. DOCUMENT NO. 48.

Biographical and Historical Memoirs of Mississippi.

CHAPTER I.

Topography, Natural History, and Paleontology.

Mississippi is bounded on the south by the north line of southeast Louisiana, Pearl river and the Mississippi sound of the gulf of Mexico; on the east by the west line of Alabama, and on the north east by the Tennessee river; on the north by the south line of Tennessee (latitude 35 degrees), and on the west by the Mississippi. It embraces also the islands in the gulf of Mexico, within six leagues of shore, viz: Isles Dauphin, Ronde, Corne, au Chevreul, aux Vasseau, au Chat, St. Josephs, Grand island, and a few smaller bodies of elevated sands, or a territory extending from latitude 30 degrees, to latitude 35 degrees north, and from longitude 11 degrees 25 minutes west to 14 degrees 33 minutes west. The area in square miles, as stated in the United States Census Reports, is forty-six thousand eight hundred and ten, but local authorities place it as high as fifty five thousand five hundred. The width of the State, on the line of latitude 35 degrees, is one hundred and twenty miles; on latitude 31 degrees, one hundred and eighty-six miles, and on the Gulf coast, seventy-eight miles. The length of the State, on the line of longitude 12 degrees 30 minutes, being the greater line, is three hundred and thirty miles, but the frontage on the Mississippi is continental in its proportions.

From Goodspeed's History of Mississippi. Published 1891.

(Endorsed:) State of Louisiana *vs.* State of Mississippi. Mississippi Doc. 48 Filed Aug. 20th 1904. Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2142 MISS. DOCUMENT NO. 49.

Article 9, Chapter 13 (Public Health and Safety), Hutchinson's Mississippi Code, 1798 to 1848.

AN ACT to Prevent the Destruction of Oysters in the Waters of the State of Mississippi, July 26, 1843.

§ 1. It shall be unlawful for any person or persons to take or catch oysters in any of the waters of this State with a scoop or drag, or any other instrument than such tongs and rakes as are now in use; and all persons whatever, are hereby forbid the use of such instruments in taking or catching oysters in the waters of this State, on pain of forfeiting to the State, the boat or vessel employed for the

purpose, together with her papers, furniture, tackle, and apparel, and all things on board the same.

2. The sheriffs of the counties bordering on the said waters of the State of Mississippi, are hereby charged with the execution of this law, and if any of the said sheriffs shall be, at any time hereafter, credibly informed of the violation of the same, by the oath of any credible person, administered before any justice of the peace, or upon his own view, it shall appear to him that any person or persons are, or to have been engaged in using a scoop or drag, or instrument hereby prohibited in taking or catching oysters in the waters of this State, it shall be his duty to seize and take into his possession the boat or vessel thus unlawfully employed, together with her papers, furniture, tackle, and apparel, and all things on board the same, and to arrest and take into his custody all the boatmen belonging to said boat or vessel, and carry them before a justice of the peace of his county, representing to the justice of the peace the breach of law committed, and naming to him the witnesses to support the charge; and the said justice shall be and he is hereby authorized to take cognizance of the offense then charged, and shall docket the case in the name of the State against the boatmen in the custody of the sheriff, and shall immediately summon before him the witness or witnesses named by the sheriff, and all the witnesses that may be named by him and the defendants; and shall examine the said witnesses on oath, with the said sheriff, if necessary, and inquire fully into the alleged offense of which the finding a scoop or drag, or other prohibited instrument on board such boat or vessel, shall be considered *prima facie* evidence of guilt, and after a full investigation of the case, if the justice shall think the charge groundless, he shall immediately discharge the said boatmen, and restore to them the boat or vessel seized by the sheriff, and all things belonging to him or them; but if he shall be of opinion that oysters have been taken and caught in contravention of this act, by said defendants, he shall require of each or every person found to be concerned, bond, with security for his appearance at the next circuit court of his county, to answer said charge, and on failure to give the same, the said justice shall commit all such defendants to the jail of the proper county; and upon such persons being found guilty, the circuit court shall fine or imprison such persons, as in cases of malicious mischief; and it shall be the duty of the sheriff to take bond with security from the owner or owners of such boat, or craft and tackle, conditioned that the same shall be forthcoming, and subject to the judgment of the said circuit court; and the said circuit court shall, at its next term thereafter direct an issue to be made up to try the fact of forfeiture of such boat; and if the issue shall be found against said boat, the court shall cause a judgment of forfeiture to be entered against the same, and shall award a *venditioni exponas* against the same.

3. Within ten days from the rendition of the judgment, it shall be the duty of the sheriff, after having given ten days'

notice, by public advertisement in three public places of his county, to sell for cash to the highest bidder, for the benefit of the State, the boat or vessel in his possession, together with the property, furniture, tackle and apparel; and the said sheriff is hereby directed to account with the auditor, and pay to the treasurer of this State, the proceeds of such sale, stating his account on oath, with the said auditor, of all expenses necessarily incurred by him in the seizure and disposition, and sale of the said property, and paying the balance that remained after deducting said expenses to the said treasurer, upon which balance the treasurer is authorized to allow him a compensation of ten per centum for his services for conducting the said business; and the said treasurer is hereby required to account for said sums as other money in his office.

4. If resistance be apprehended by the sheriff engaged in the execution of this act, he shall summon to his aid the *posse comitatus* of his county, armed and equipped as occasion may require, and without delay to perform his duty, and if resistance be made to the sheriff by the boatmen of the boat or vessel, or other persons in seizing the same, and taking such boatmen, such resistance in the boatmen or other persons shall be deemed a misdemeanor against the laws of this State, presentable by the grand jury of the county, whose officer is resisted, and punishable by fine and imprisonment, as in cases of resistance to legal process in the hands of such officer.

5. If any person or persons shall obstruct the navigation of any of the creeks, rivers or channels of this State, by throwing into the waters thereof, heaps of refuse in the process of picking the oysters for market, they shall be liable to, and incur a penalty not exceeding twenty dollars, nor less than ten dollars for each and every offense, to be recovered before a justice of the peace, one-half to the informer and the other half to the State, and the party so offending shall stand committed until the said fine, and all cost be paid or otherwise discharged by due course of law.

Chapter XXVI, Revised Code of Mississippi, 1857.

An Act for the Preservation of Game and Oysters in this State.

Art. 1. The board of police of the respective counties within this State shall have full power and jurisdiction for the protection and preservation of the oysters growing or being grown, and of the game running or being produced in a state or condition of nature within the territorial limits of each county respectively; and to regulate the times, places and circumstances under which either may be taken, and by whom and in what quantities, and to what extent made marketable; and with ample power to conserve the same for domestic use and consumption of the citizens and sojourners of the counties respectively, and also to secure a private right of property in oysters, banked, planted, or cultivated in the waters of the county. And to this end said boards of police may, from time to time, pass all such

dinances, in form of orders or resolutions, as they may respectively em necessary; and such ordinances shall from the date of their loption, or from such prospective date as may be specified, have e same force and effect as if enacted by the legislature of this State, and shall remain in force until repealed by said —.

41 Art. 2. The said board may respectively direct the publication of such ordinances, in such manner as they may judge st expedient; and copies thereof, certified by the clerk of the ard, shall at all times be taken as sufficient authentication of said linances.

Art. 3. The judicial administration of said ordinances shall per- n as matter of police, to any justice of the peace in the counties spectively, whether the act complained of transpired in his beat elsewhere in said county, or before any magistrate of any city or wn within said county, whether designated as mayor or by any er title; and the breach of any ordinance prescribed by the board police shall be decreed and taken to be a misdemeanor, and a lation of police order, and subject to forfeiture of the oysters or ne taken in violation of such police regulations, and to such fine d imprisonment as may be prescribed by said ordinances, or to or more of these penalties; and such complaints shall be sumrily heard and disposed of, as other matters affecting the public ce and order.

rt. 4. It shall be the duty of all sheriffs, constables, and town d city marshal/s, within the county, to seize with or without pros, any person or persons whom they may see and know, or have d reason to believe, to be violating any such police regulations, d to seize all such oysters or game found in the possession of such sons in violation of said police regulations, together with the ts, casts, or other conveyances or things in which oysters or game y be held or contained; and first securing the same, shall forthh convey the person or persons from whose custody the game or ters shall have been taken, before any such magistrate or justice he peace as aforesaid, to be dealt with according to the rules and ulations prescribed by such board for such offense.

rt. 5. It shall be competent for the board of police in cases of eiture of the articles seized, to determine the disposition to be le of them; and if there be any delay given to the party arrested the hearing of the case, the magistrate may cause the articles d to be disposed of before the hearing, and the proceeds to be d to abide the result.

pproved, March 11, 1856.

Chapter 30 of the Revised Code of Mississippi of 1871.

An Act in Relation to the Preservation of Game and Oysters.

Article 1.

§ 1889. The boards of supervisors of the respective counties within this State, shall have full power and jurisdiction for the protection and preservation of the oysters growing, or being grown, and of the game running or being produced, in a state or condition of nature, within the territorial limits of each county respectively; and to regulate the time, places and circumstances, under which either may be taken, and by whom and in what quantities, and to what extent made marketable; and with ample power to conserve the same for domestic use and consumption of the citizens and sojourners of the counties respectively, and also to secure a private right of property, in oysters banked, planted, or cultivated in the waters of the county. And to this end, said board of supervisors may, 2145 from time to time, pass all such ordinances, in form of orders or resolutions, as they may respectively deem necessary; and such ordinances shall, from the date of their adoption, or from such prospective date as may be specified, have the same force and effect as if enacted by the legislature of this State, and shall remain in force until repealed by said boards.

§ 1890. The said boards may respectively direct the publication of such ordinances, in such manner as they may judge most expedient; and copies thereof, certified by the clerk of the board, shall at all times be taken as sufficient authentication of said ordinances.

§ 1891. The judicial administration of said ordinances, shall pertain as matters of police, to any justice of the peace in the counties respectively, whether the act complained of transpired in his beat, or elsewhere in said county, or before any magistrate of any city or town, within said county, whether designated as mayor, or by any other title; and the breach of any ordinance prescribed by the board of supervisors, shall be decreed and taken to be a misdemeanor, and a violation of police order, and subject to forfeiture of the oysters or game taken in violation of such police regulations, and to such fine and imprisonment as may be prescribed by said ordinances, or to one or more of these penalties; and such complaints shall be summarily heard and disposed of, as other matters affecting the public peace and order.

§ 1892. It shall be the duty of all sheriffs, constables, and town and city marshals, within the county, to seize, with or without process, any person or persons, whom they may see and know, or have good reason to believe, to be violating any such police regulations, and to seize all such oysters or game, found in the possession of such person, in violation of said police regulations, together with the boats, casts, or other conveyances or things, in which the oysters or

game may be held or contained; and, first, securing the same, shall forthwith convey the person or persons from whose custody the game or oysters shall have been taken, before any magistrate or justice of the peace, as aforesaid, to be dealt with according to the rules and regulations prescribed by such boards for such offense.

§1893. It shall be competent for the boards of supervisors, in cases of forfeiture of the articles seized, to determine the disposition to be made of them, and if there be any delay given to the party arrested, for the hearing of the case, the magistrate may *be* cause the articles seized, to be disposed of before the hearing, and the proceeds to be held to abide the result.

§1894. That this act shall take effect from and after the first day of October, A. D. 1871.

Approved, April 8th, 1871.

Power of Boards of Supervisors.

§956. The boards of supervisors of the respective counties within this State shall have full power and jurisdiction for the protection and preservation of the oysters growing or being grown, and of the game running or being produced in a state of nature within the territorial limits of each county respectively; and to regulate the times, places and circumstances under which either may be taken, and by whom and in what quantities, and to what extent made marketable; and with ample power to conserve the same for domestic use and consumption of the citizens and sojourners of the counties respectively, and also to secure a private right of property in oysters, banked, planted or cultivated in the waters of the county. And to this end said boards of supervisors may, from time to time, pass all such ordinances, in form of orders or resolutions, as they may respectively deem necessary; and such ordinances shall from the date of their adoption, or from such prospective date as may be specified, have the same force and effect as if enacted by the legislature of this State and shall remain in force until repealed by said board.

(Section 956, of the Revised Code of the State of Mississippi of 1880.)

Chapter LXXXIV, Laws of Mississippi of 1884 (Page 89).

An Act to Amend Chapter 29 of the Revised Code of 1880.

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That the provisions of chapter 29 of the Revised Code of 1880, are hereby so extended as to give the boards of supervisors of the respective counties within this State full power and jurisdiction for the protection and preservation of fish, shrimp and crabs within the waters and jurisdiction of each county respectively.

SEC. 2. Be it further enacted, This act shall take effect from its passage.

Approved, March 14, 1881.

Chapter LXXXIII, Laws of Mississippi of 1881 (Page 88).

An Act to Amend Section 956 of the Code Relating to the Preservation of Oysters and Game.

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That section 956 of the Code of 1880 be and the same is hereby amended as follows: Add after the word "game," in the fourth line of said section, the words "and fish," and that this act take effect from the date of its passage.

Approved, March 13, 1884.

Chapter CVI, Laws of the State of Mississippi of 1886 (Page 180).

An Act to Encourage Planting Oysters, and for Other Purposes.

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That all persons having or owning lands in the counties of Hancock, Harrison and Jackson in this State, fronting on the gulf of Mexico or Mississippi sound, bays or bayous, shall have the exclusive right and authority to plant oysters in the waters of said gulf of Mexico, bays and bayous, in front of their lands: *provided*, said right shall not extend across any channel, and only up and to the same, and shall in no way impede or obstruct navigation, or include any natural oyster reefs.

2147 SECTION 2. Be it further enacted, That said oysters so planted and their increase are hereby declared to be the personal property of the owners of the said land.

SEC. 3. Be it further enacted, That any person or persons who shall remove or interfere with the oysters planted by the owners of the land fronting the waters in which the oysters are planted, shall be guilty of a misdemeanor, and on conviction before any court of competent jurisdiction, shall be fined in a sum of not more than twenty five dollars and not less than five dollars, or be imprisoned in the county jail not more than twenty days nor less than one day, and that any person convicted under this act shall be confined in the county jail, until said fine and all costs are paid.

SEC. 4. Be it further enacted, That all laws in conflict with this act are hereby repealed.

Approved, March 4, 1886.

Chapter 90, Laws of Mississippi, 1888.

An Act to Amend an Act Entitled "An Act to Encourage Planting Oysters, and for Other Purposes," Approved March 4, 1886, and for Other Purposes.

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That section one of an act entitled "An act to encourage planting oysters, and for other purposes," approved March 4, 1886, be and the same is hereby amended by adding to the said section the following: "And provided that no person shall fence in or stake off any of the public oyster reefs, or any part or parts thereof, in the counties of Jackson, Harrison or Hancock, under a penalty of two hundred dollars, to be recovered in any court of competent jurisdiction, in the name of the State, for the use of the common school fund.

SEC. 2. Be it further enacted, That any person who has fenced in or staked off any of the public oyster reefs, or any parts thereof, in the first section of this act mentioned, who shall not within thirty days after the passage of this act remove such fencing or stakes, and any person who shall hereafter fence or stake off such public oyster reefs, or any part thereof, shall be guilty of a misdemeanor, and on conviction shall be fined in any sum not exceeding two hundred dollars.

SEC. 3. Be it further enacted, That this act take effect and be in force from and after its passage.

Approved March 7, 1888.

Chapter 194, Laws of Mississippi of 1890 (Page 304).

An Act to Protect the Public Oyster Reefs in the Counties of Jackson, Harrison, and Hancock.

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That the selling of unculled oysters in the within named counties is hereby prohibited (except for planting purposes), and any person or persons found selling or buying oysters not culled from all young and unmarketable oysters, shall on conviction for the first offense be fined in a sum of not less than twenty-five dollars and ten days in the county jail, and for the second or other offenses be fined one hundred dollars and remain months in the county jail. One-half of the fine to go to the one giving the information leading to the arrest and conviction and the other half to go to the common school fund of the State.

SEC. 2. There shall be a measure known as the oyster measure, which shall be of the following description and size: A half barrel measure shall be a tub 17 inches in diameter on the bottom (inside), inches in diameter on top (inside), and 13 inches deep (inside).

A quarter of a barrel shall be a box 6 inches deep, 12 inches wide, and 18 inches long (inside). All measures before being used shall be taken to the sheriff of the county where to be used, who shall measure them, and if they comply with the provisions of this section, he shall stamp on the measure the word "Inspected," with his name attached, and shall receive a fee of twenty-five cents for each measure stamped. And all oysters in the shell shall be sold and bought by the above mentioned measure, and any person found selling or buying oysters in the shell by any other measure, shall on conviction be fined not less than ten dollars for each offense.

SEC. 3. The catching of oysters from the public oyster reefs during the months of May, June, July and August is prohibited, except for home use and local consumption, and anyone convicted of violating the provisions of this section shall be subject to all the penalties provided in section one of this act, provided that nothing in this section shall prohibit the catching of oysters on the public reefs of Harrison county for planting purposes in said county.

SEC. 4. No person or persons shall take in any one year from the public oyster reefs more than one thousand barrels of oysters for their individual use, or for planting purposes, and any person or persons violating the provisions of this section shall be subject to all the fines and penalties as provided in section one of this act.

SEC. 5. All acts and parts of acts in conflict with this act are hereby repealed, and this act take effect and be in force thirty days after its passage.

Approved February 22, 1890.

Chapter 96 of the Annotated Code of Mississippi of 1892.

Oysters, Crabs, Fish, and Shrimp.

3080. Coast counties to regulate.—The boards of supervisors of the counties of Hancock, Harrison, and Jackson have full jurisdiction and authority for the protection and preservation of oysters, crabs, salt water fish, and shrimp in their respective counties, and they may make all the proper regulations for that purpose, to the same extent, and with like effect in every particular, and to be enforced and subject to the like penalties and forfeitures as the regulations of boards of supervisors generally for the protection of game and fish.

3081. Regulations to protect public oyster reefs.—The boards of supervisors of said counties shall have full authority to make all needful regulations, not contrary to law, for the protection of the public oyster reefs in their respective counties, and to con-
2149 serve the same for the use of the inhabitants of the State.

3082. Regulations as to shrimp.—It is unlawful to haul any shrimp-net on the beach above low tide; and the said boards of supervisors may prescribe the size of the meshes of shrimp-nets, but may not otherwise regulate the taking of shrimp. All nets of meshes smaller than those prescribed shall be forfeited.

83. Mississippi sound; regulations.—The regulations of any
y relating to the preservation and protection of oysters, fish,
, and shrimp in the Mississippi sound and adjacent waters,
not give any preference to citizens of that county over those
y other county.

84. Natural oyster-reefs public.—All natural oyster reefs belong
e public, and cannot be appropriated exclusively by any
n.

85. Unlawful to take oysters in certain months.—It is unlawful
e oysters from the public oyster-reefs during the months of
June, July and August, except for the domestic use of the in-
nts and for planting purposes, as regulated by the boards of
isors.

86. Unlawful to sell unculled oysters.—In taking oysters from
tural reefs, they shall be there culled of all young and un-
table oysters, unless taken for planting.

87. Taking of oysters limited.—Any person, corporation, or as-
on of persons shall not take from the public oyster-reefs more
wo thousand barrels, unless authorized by the board of super-
and in no case to exceed ten thousand barrels in any one

88. Oysters are personal property.—Oysters, whether in the
l reefs or in plantations, are personal property, and the sub-
larceny; and any person taking oysters from the public
r beds contrary to law or the regulations of the board of super-
shall be guilty of larceny, in addition to suffering the other
es prescribed.

89. Oyster-boats to be licensed.—The taking of oysters in any
han licensed boats, except the boat be of less than one ton bur-
d the only one belonging to the party, is prohibited; and the
of supervisors of said counties shall license oyster boats and
e all proper regulations for the same; but the fee for license
t exceed one dollar a ton burden, and the license shall be
season only, and shall be taken out in the county of the
e of the owner of the boat, or in the county where the boat
oyed, and shall be good in each of said counties. Every
boat shall have conspicuously painted on it the word
ed," and the number of the license.

90. Oyster-inspector.—The boards of supervisors of said coun-
jointly, or each may severally, appoint an oyster inspector
vise the oyster and other interests in the sound and adjacent
nd may prescribe his duties and fix his compensation.

91. Powers of oyster-inspector.—The oyster-inspector shall have
ority and power of a police officer, and he may arrest, with
ut warrant, all persons violating the laws and regulations;
may seize and hold for condemnation or forfeiture, all oysters,
h, and shrimp taken unlawfully or contrary to the regula-
d all boats, tackle, nets, and appliances used in such taking.

92. Police boats.—The said boards of supervisors may, in like

manner, purchase and equip one or more boats, to be used by
2150 the inspector as the board or boards shall direct, as police boats, and may regulate the *the* use thereof in the protection of oysters, crabs, fish, and shrimp, and the enforcement of the laws and regulations.

3093. Expenses; how defrayed.—The fees for licenses, and all fines, penalties and forfeitures for violating the laws and regulations concerning oysters, crabs, fish, and shrimp, shall constitute a special fund in each of said counties, out of which all the expenses incurred shall be paid, but any deficiency may be supplied by allowance out of the general fund of the counties. All fees, fines, penalties, and forfeitures shall be paid into the treasuries of the respective counties, and shall be disbursed only on the warrant of the board of supervisors. The several county treasurers shall be liable for all such funds on their official bonds.

3094. Planting oysters.—The sole right of planting oysters belongs to a riparian owner, and extends only up to the channel, and does not include any natural oyster-reef or bed. Stakes of such frail material as may not injure water craft may be set up to designate the bounds of the plantation; but the water shall not be fenced in or otherwise appropriated, and navigation shall not be impeded.

3095. Misdemeanor to violate laws or regulations.—Any violation of the laws and regulations relating to oysters, crabs, fish, and shrimp shall be a misdemeanor.

Chapter 129, Laws of Mississippi 1896, Page 142.

An act to regulate the fishing of oysters, crabs, fish, and shrimp in the gulf of Mexico and Mississippi sound, and to increase the public revenue by leasing public oyster grounds, and to repeal chapter 96 of the Code of 1892.

Section 1. Be it enacted by the legislature of the State of Mississippi, That the boards of supervisors of the counties of Hancock, Harrison and Jackson have full jurisdiction and authority for the protection and preservation of oysters, crabs, salt water fish, and shrimp, in their respective counties, and they may make all proper and reasonable regulations for that purpose, to *be* the same extent, and with like effect in every particular, and to be enforced and subject to the like penalties and forfeitures as the regulations of boards of supervisors generally for the protection of game and fish.

Sec. 2. That the boards of supervisors of said counties shall have full authority to make all needful and reasonable regulations, not contrary to law, for the protection of the public oyster reefs in their respective counties.

Sec. 3. That it is unlawful to haul and shrimp net on the beach above low tide; and the said boards of supervisors may prescribe the size of the meshes of shrimp nets, but may not otherwise regulate the taking of shrimp by *bona fide* residents of this State. All nets of meshes smaller than those prescribed shall be forfeited.

1. That the regulation of any county relating to the preser-
and protection of oysters, fish, crabs and shrimp, in the Mis-
sound, and adjacent waters, shall not give any preference to
itizens of that county over those of any other county.

SEC. 5. That all natural oyster reefs belong to the public
and cannot be appropriated exclusively by any person, and a
oyster reef is hereby declared to be such a reef, as from which
n can make reasonable wages by taking oysters in ordinary
r.

6. That it is unlawful to take oysters from the public oyster
ring the months of May, June, July and August, except for
nestic use of the inhabitants and for planting purposes as reg-
by the boards of supervisors.

7. That in taking oysters from the natural reefs, they shall
ed as far a- practicable, without destruction to the oyster, of
ng and unmarketable oysters, unless taken for planting.

8. That oysters, whether in the natural reefs or in planta-
re personal property, and the subject of larceny, and any
taking oysters from the public reefs or beds contrary to law,
regulations of the boards of supervisors, shall be guilty of lar-
n addition to suffering the other penalties prescribed.

9. That the sole right of planting oysters and erecting bath
and other structures in front of any land bordering on the
f Mexico or Mississippi sound, belongs to a riparian owner,
tends not more than one thousand yards from the shore, and
ot include any natural oyster reef or bed, and does not ex-
eyond any channel. Stakes of such frail material as may not
any water craft may be set up to designate the bounds of the
tion; but the water shall not be fenced in or otherwise appro-
l, and navigation shall not be impeded.

10. That the clerks of the chancery court of Harrison, Jack-
d Hancock counties be authorized to lease to *bona fide* resi-
of Mississippi for a period of fifty years, for cash, any g.ounds
Mississippi sound, covered with water, within their respective
es, which is a thousand yards from the shore, or is in front of
ublic land, or is beyond the channel from the shore for the
ng and cultivating of oysters; and no more than forty acres
e leased to a single person or corporation: Provided, however,
round planted by private individuals under the provisions of
isting laws shall not be so leased, or the owner or owners dis-
in their possession; and provided further, that this shall not
to public oyster reefs.

11. That when any person, being a *bona fide* resident of Mis-
i, desires to take advantage of section 10 of this act, he shall
a survey of the land desired to be leased by him, to be made
county surveyor, and shall also mark the boundaries of the
by placing on each corner of the same buoys, marked in such
as to clearly designate the ground sought to be leased, and
ile his petition to the clerk to lease such ground, and the ex-

penses so incurred shall be repaid to the petitioner by the clerk out of the proceeds of such lease, on the affidavit of such petitioner being filed in his office.

SEC. 12. That when any person, being a *bona fide* resident, files in the office of the clerk of the chancery court of the county in which the land is situated, the petition and survey provided for in section 11 of this act, it shall be the duty of said clerk to advertise in some newspaper published in the county, for three weeks, a notice stating the land to be leased, when to be leased, and where to be leased, and at the time and place advertised, he shall proceed to lease the same at public outcry, to the highest bidder, being a *bona fide* resident of the State of Mississippi, and the proceeds arising from the sale, after paying the expenses of advertising, surveying and marking
2152 such lands, shall be by him paid into the State treasury, and at the time of paying the same he shall also file in his office a statement of his doings under this act.

SEC. 13. That the boards of supervisors of Jackson, Harrison and Hancock counties shall never adopt any rules or regulations to prevent citizens of the State of Mississippi from dredging oysters in water fourteen feet in depth, or more, or from fishing with tongs in water of any depth.

SEC. 14. That chapter 96 of the Code of Mississippi of 1892, be and the same is hereby repealed, and this act take effect and be in force from and after its passage.

Approved March 14, 1896.

Chapter 58, Laws of Mississippi, 1902.

An act to regulate the fishing and canning of oysters in the State of Mississippi and improving and enlarging oyster beds in the Mississippi waters and to repeal chapter 96 of the Annotated Code, chapter 129 of the Laws of 1896, and chapter 90 of the Laws of 1898.

Repealing Existing Oyster Laws.

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That chapter 96 of the Annotated Code, chapter 129 of the Laws of 1896, and chapter 90 of the Laws of 1898, in relation to oysters, crabs, fish and shrimp, be and the same are hereby repealed.

Board of Oyster Commissioners Created; Governor to Appoint Commissioners; Terms of Office.

SEC. 2. That a board of oyster commissioners be, and the same are hereby created, to consist of five members to be appointed by the governor, whose term of office shall begin on the first Monday in September, and shall be for five years each, except the members of the first board appointed under this act, whose terms of office

shall begin upon their appointments and shall continue for one, two, three, four, and five years, respectively, after the first Monday in September, 1902, so that one member of said board shall be appointed annually. In case of a vacancy, the governor shall appoint a successor to fill out the unexpired term. In making appointments, the governor shall endeavor to select members who are familiar with all branches of the oyster industry, but who are not engaged in catching, canning, or dealing in oysters in any way.

Meeting of Board; to Supervise Oyster Catching and Canning; Compensation of Commissioners; Duties of Secretary; Deputy Inspectors.

SEC. 3. Said board shall have an official seal and shall meet on the first Monday in each month during the canning season, and as often as business may require, at the office of the secretary of the board, and the president may call special meetings on giving one day's notice to each member. They shall receive and audit the accounts of oysters bought and caught, of all canneries and dealers, and the accounts of all inspectors and members of said board, and all the expenses incident to the carrying into effect of this act; and shall see that privilege taxes and license fees are paid and
2153 that the officers faithfully discharge their duties and shall hear complaints of any person aggrieved by the action of any officer. The members of said board shall receive as compensation five dollars per day while engaged, not to exceed twenty days in any one year, and shall receive their actual traveling expenses to be audited and allowed by the board. Said board shall annually, at a regular meeting to be held on the first Monday in September, elect a president from their number, who shall preside at all meetings and shall have but one vote, and a chief inspector, who shall not be a member of said board, who shall be familiar with the oyster industry but shall not be interested therein as fisher, packer or shipper, and who shall receive the sum of one hundred dollars per month, as such inspector, and actual railroad fare, in performing the duties of his office. Said board shall annually elect at said meeting a secretary, who may be a member of said board, and who shall perform all the duties usually performed by secretaries of like bodies to be prescribed by the board. He shall have his office at some point centrally located on the Gulf coast, to be fixed by the board. He shall keep his office open at all times during business hours. He shall keep the seal of the board, and shall receive as his compensation the sum of six hundred dollars per annum, fifty cents per each license issued, and, if a member of said board, his regular per diem. Said board shall appoint deputy inspectors, not exceeding three, who shall be familiar with fishing and culling oysters, who shall serve during the canning season. They shall visit the different points where oysters are canned or shipped and aid the inspector in enforcing the provisions of this act, and shall receive therefor the sum

of sixty dollars per month for the time they are engaged, together with their actual railroad fare.

License Fee for Catching Oysters.

SEC. 4. Any owner of any vessel of over one ton burden gross, desiring to catch or take oysters from the public oyster reefs of this State shall first obtain from the secretary of the board of oyster commissioners a license therefor, and said license shall have effect for twelve months from the first day of the month in which it is issued, and no vessel of over one ton burden gross shall be used in catching and fishing for oysters on the public reefs in the waters of this State unless so licensed.

Secretary to Account for License Blanks.

SEC. 5. The auditor shall furnish the said secretary from time to time a sufficient number of license blanks, which shall be charged to said secretary, and all unused blanks shall be accounted for annually by said secretary, and all moneys collected therefor by said secretary shall be paid into the State treasury monthly and placed to the credit of the oyster fund.

License; What to Show; Fees for Same.

SEC. 6. Each license to take and catch oysters in this State shall state the name of the applicant and the name of his or her vessel, and a license under the provisions of this act shall not be used except on the vessel so mentioned in said license, and the applicant therefor shall pay a license fee of two dollars and fifty cents on vessels of over one ton burden gross and under five tons; and five dollars for vessels of five tons and under ten; ten dollars on
2154 vessels of ten tons and under twenty; and fifteen dollars on vessels of twenty tons and over for each vessel for which he may obtain license, and fifty cents license fee to the officer issuing the same.

Unlicensed Boats Prohibited.

SEC. 7. No person shall take oysters with rakes, tongs, dredges, or other instruments from the public reefs of this State in an unlicensed boat of over one ton burden gross, and all persons engaged in taking and catching oysters shall exhibit their authority for so doing when required by an officer of the police force. Any boat of over one ton burden gross, which is not enrolled in the custom house of the United States, shall pay a license fee of two dollars and fifty cents.

Fee for Unclassified Vessels; Secretary to Receive 50 Cents for Each License.

SEC. 8. Before issuing any license, the secretary of the board shall collect the license fee, as provided for in section 6, and in case there are no measurements and the vessel or vessels are not classified by the custom house records, a license fee of two dollars and fifty cents shall be exacted from any person or persons fishing or taking oysters from the waters of this State in any canoe, barge, skiff or other vessel of over one ton burden gross. Said secretary shall receive as a fee for the issuance of said license, the sum of fifty cents for each license so issued, to be paid by the person to whom the license is issued. No license shall be required of any canoe, barge, skiff or other vessel of one ton burden gross or under.

Vessels to be Provided with Numbers.

SEC. 9. The board of oyster commissioners shall have painted a sufficient number of signs in black figures on white canvass, numbered from naught to two hundred, consecutively, and a greater number, if needed, and with each license so issued the applicant is to be furnished a number corresponding to the number of his or her license; said figures shall be twenty-two inches in length and proportionate in width, and the figures shall be at least six inches apart; the receiver of said number shall not conceal nor deface the same, but when fishing shall expose the number to view upon the sails of his or her vessel, or some conspicuous portion of such vessel, and shall at all times when fishing or tonging oysters from the public reefs of this State, expose said number at the starboard side of their vessel.

Tax on Canning Factories and Shippers.

SEC. 10. Each canning factory shall pay a privilege tax of one hundred dollars, and each shipper of raw oysters a tax of twenty-five dollars, and shall receive from the secretary of the board of oyster commissioners a license therefor upon the payment of said sum to said secretary, as well as a license fee of fifty cents for issuing the same, and it shall be unlawful for any person to can or ship raw oysters without first having paid said tax and received said license.

2155 Additional Tax on Oysters; Packer to Pay Same; When to be Collected; Record of all Oyster Purchases Kept; Not to Apply to Oysters Taken from Private Beds.

SEC. 11. In addition to the privilege license required by this act, a further tax and fee of two cents per barrel is hereby laid upon all oysters canned and packed in and on all oysters shipped raw in or

from this State, and on all oysters caught or taken from the public reefs for packing, canning, and for shipment or sale raw.

This tax shall be paid by the person, firm, or corporation packing or canning said oysters, and in cases of oysters sold or shipped raw by the dealer selling or shipping the same, that is to say, by the first dealer who handles said oysters, and any oysters sold by any person who has purchased same from a dealer who has paid the license thereon shall not be again taxed.

It shall be the duty of the inspector of State fisheries to collect from each firm, corporation, packer, commission man, dealer or other person engaged in buying and selling oysters said tax upon the first day of each month, or as soon thereafter as practicable, and oftener if he deem it necessary, and to pay the same to the treasurer once each month.

Each packer, canner, corporation, firm, commission man, and dealer shall keep a record of all the oysters purchased by them, with the names of the parties from whom purchased and date of purchase and shall keep an itemized account of all oysters caught by such packer, canner, corporation, firm, dealer, or other person, and all caught and taken by boats controlled by them, and shall exhibit the same at all times when called upon by any commissioner or officer so to do, and shall, on the first day of each month, make return under oath as to the number of barrels purchased and caught during the preceding month, and the making of any false affidavit to any return shall be perjury and punishable as if provided in other cases of perjury.

This section shall not apply to oysters taken from private bedding grounds, but the burden of proof shall be on any person having oysters in his possession to show that they came from private bedding grounds.

Taxes may be collected by the chief inspector under this section by distress, and all laws regulating the collection of other taxes by distress shall, as far as practicable, apply to the collection of this tax, but the chief inspector and not the sheriff, shall collect the same.

Oyster Fund Created.

SEC. 12. All moneys received or obtained by the payment of taxes or the issuance of licenses under the provisions of this act, except the sum of fifty cents for each licence, to be retained by the secretary, shall be paid over to the State treasurer, and shall constitute a fund to be known as the "oyster fund;" the expenses of enforcing this act shall first be paid out of said fund, and the sum of five thousand dollars annually shall be expended in improving the oyster reefs and in spreading the shells and making new bottom, under the direction of the board of oyster commissioners; the remainder of all moneys received thereunder shall, on the 15th day of September in each year, be passed to the credit of the general fund.

Oysters to be Culled.

SEC. 13. All oysters taken from the public reefs of the waters of this State, either with scoops, dredges, tongs, or other instru-
2156 ments or appliances, shall be culled upon their natural beds or bars as taken, and all young oysters measuring less than two and one-half inches from hinge to mouth, and all dead shells, shall be returned to the bed or bar from which taken, and it shall be unlawful for any person to remove from public reefs or beds where taken any oysters without immediately culling the same and returning all dead shells and young oysters to the same reefs from which taken.

How Cargo to be Culled.

SEC. 14. No captain or other person in charge of any vessel shall have oysters in his or her possession, or offer for sale in this State, oysters taken from the public oyster reefs which contain more than 7 per cent. of shells and small oysters, and in order that the inspector may arrive at the percentage of unculled oysters, he shall cause to be culled, according to law, every tenth barrel in the cargo, if he deem it necessary; if the cargo upon this basis of percentage prove unculled as required by law, the inspector shall condemn said cargo, cause the same to be reculled, and cause the young oysters and dead shells to be returned to the reefs from whence taken, and shall proceed against said offender as the law directs for such offense.

Unlawful to Buy Unculled Oysters.

SEC. 15. It shall be unlawful for any packer, commission man or other person to purchase or have in his possession, oysters not culled according to law.

Inspector to Patrol Oyster Reefs and See that Oysters are Culled; May Arrest for Violation of this Law; Licensed Vessels to Assist Inspector.

SEC. 16. The board of oyster commissioners shall provide the chief inspector with one additional inspector, who shall be a seafaring man competent to act as captain of the boat on which he shall be engaged, who shall receive a salary of sixty dollars per month during the canning season, whose duty it shall be to patrol daily the waters of the Mississippi sound under the direction of the chief inspector, and to see that all oysters taken from public oyster reefs are culled on the reefs or beds where taken, and when not otherwise engaged, the chief inspector shall patrol said sound in person, under rules to be adopted by the board; and said inspector and all subordinate inspectors shall be clothed with power to arrest with or without warrant any person who shall violate any of the provisions of this act, and to take him before a justice of the peace for trial. They

shall at all times be governed by all lawful rules and regulations prescribed by said board. It shall be the duty of every captain of a licensed vessel, when called upon by an inspector so to do, to assist said officer, both in person and with his boat and crew, in making any arrest for a violation of this act, and such captains may use such force at their command as may be necessary in making the arrest when such persons attempt to escape or resist arrest, and any such captain or member of any crew failing so to do, shall be guilty of a violation of this act, and subject to its penalties.

Patrol Board and Crew to be Provided by Commissioners.

SEC. 17. The board of oyster commissioners shall provide the necessary boat and engage the necessary crew to be employed
2157 by the chief inspector in patrolling the waters of the Mississippi sound, as aforesaid, and all expenses therefor shall be audited and allowed by the board of oyster commissioners at any regular meeting or any meetings called therefor, not to exceed in amount one hundred and forty dollars per month, exclusive of the salary of the captain, as fixed by section 16 of this act.

Reefs to be Dredged When Too Thick; Oyster Beds to be Built up.

SEC. 18. During the season between the 15th day of May and the 1st day of September in each year, the chief inspector, under the direction and control of the board of oyster commissioners, shall employ boats, crews, and laborers, and shall dredge the oysters in the Mississippi sound from places where they are too thick, and shall spread them on reefs there they are too thin, and shall carry shells from the factories and spread them in places where the oyster beds can be improved and enlarged thereby, and the board of oyster commissioners, in transplanting and spreading shells, may expend such sums out of the "oyster fund" as they may deem proper, not exceeding five thousand dollars per annum.

How Expenses to be Paid.

SEC. 19. All expenses of enforcing this act, together with the salaries of the officers herein provided for, shall be paid by the State treasurer out of the "oyster fund" on the warrant of the auditor. Whenever an allowance is made by said board, a certificate shall issue to the person to whom such allowance is made, which certificate, with a copy of the account on which the allowance is made, shall be presented to the governor, and when the governor or shall have endorsed his approval thereon, the auditor shall issue his warrant therefor.

Oysters Not to be Taken from Reefs During Certain Seasons.

SEC. 20. It shall be unlawful for any person to catch or take oysters or have oysters taken from the public oyster reefs in his or

her possession between the 15th day of May and the 15th day of September in any year, except for planting or domestic purposes or consumption in the State of Mississippi; provided, that this section shall not prevent transportation companies from carrying oysters from other States through this State, nor shall it be construed to prevent any person from taking oysters from private bedding grounds or transplanting or cultivating. And it shall be unlawful to take and catch oysters in the State of Mississippi between the 1st day of May and the 15th day of September in any year to be transported out of the State or to transport oysters in their raw state at any time out of the State of Mississippi without first paying the chief inspector a license tax of two cents per barrel.

Unlawful to Violate or Evade This Act.

SEC. 21. It shall be unlawful for any packer, commission man, or boatman to conspire or agree with any person to evade any of the provisions of this chapter, or to knowingly participate in any such violation.

Inspector's Duties; Penalty for Evading Inspection.

SEC. 22. It shall be the duty of the inspector of oysters to supervise the operation of the oyster industry and to dilligently aid in the enforcement of the provisions of this act, and it shall be unlawful for any packer, commission man, or boatman to refuse to
2158 open his house or boat where oysters may be dumped or stored, for inspection to any officer whose duty it is to inspect the same, or to conspire or agree with any other person to evade any of the provisions of this act, or to knowingly connive at or participate in such violation.

Right to Plant Oysters or Erect Bath Houses on Land Bordering the Mississippi Sound Belongs to Riparian Owner; Bounds of Oyster Plantation Marked with Stakes.

SEC. 23. The sole right of planting oysters and erecting bath houses and other structures in front of any land bordering on the gulf of Mexico or Mississippi sound, belongs to the riparian owner, and extends not more than five hundred yards from the shore, but does not include any reef or natural oyster bed, and does not extend beyond any channel. Stakes of such frail material as will not injure any water craft may be set up to designate the bounds of the plantation; but the water shall not be fenced in or otherwise appropriated, and navigation shall not be impeded.

Oysters Taken for Planting Purposes at Any Time.

SEC. 24. This act shall not prohibit any citizen of Mississippi from taking oysters from the public reefs for planting in the waters of

this State from the 15th day of May to the 1st day of July, and oysters taken for planting purposes shall not be required to be culled.

Oyster Commissioners and Secretary to Make Bonds.

SEC. 25. The members of the board of oyster commissioners shall enter into bond in the sum of two thousand five hundred dollars each, and the chief inspector in the sum of ten thousand dollars, conditioned according to law, to be approved by the governor; and the secretary and subordinate inspectors shall enter into bond in the sum of two thousand five hundred dollars each, conditioned according to law, to be approved by and filed with the board of oyster commissioners, and to be recorded in a book kept for that purpose, and each of said officers shall take an oath to faithfully discharge the duties of the office upon which he is about to enter, and shall file said oath with said secretary. No person directly or indirectly engaged in canning, shipping, fishing or dealing in oysters shall be accepted as a surety on any bond required by this act.

Board to Report to the Governor Annually.

SEC. 26. It shall be the duty of said board to make an annual report to the governor and to report to the legislature biennially, in which said reports shall be set forth in details the amount of expenses of the industry under their supervision.

Governor May Remove Members of Board.

SEC. 27. The governor shall have the power to remove the president or any member of the board for neglect of duty or incompetency, and to appoint his successor, and the board of oyster commissioners shall have the power to remove any inspector or other subordinate officer for any neglect of duty or incompetency, malfeasance or misfeasance in office, whenever the interest of the service may in their judgment require it, and to appoint another in his stead.

2159 Steam Dredges and Steam Vessels Not Allowed to Take Oysters.

SEC. 28. No steamer or other vessel using or propelled by steam or any other power than sail or hand, and no dredge, tongs, scoop, or other instrument or appliance of any character propelled, managed, aided, used or operated by means of steam or other power except hand and sail, shall be used or employed in catching or taking oysters in any of the waters of this State. This shall not prohibit the transportation by means of steam vessels of any oysters that have been lawfully caught.

Organization of Commissioners.

SEC. 29. Immediately after their appointment, the first board of oyster commissioners appointed under this act shall qualify and shall organize by electing a president and secretary who shall hold such offices until the first Monday in September, A. D. 1902.

Penalty for Violating Provisions of this Act.

SEC. 30. Any person violating any of the provisions of this act shall be fined not less than ten dollars nor more than fifty dollars, for the first offense, and not less than twenty-five dollars, nor more than five hundred dollars for any subsequent offenses.

Appropriation for Carrying Act into Effect.

SEC. 31. To meet the necessary expenses of carrying this act into effect, there shall be appropriated annually the sum of twelve thousand dollars, or so much thereof as may be necessary, out of the oyster fund of this State.

Laws Repealed Hereby to Remain in Effect for Enforcement of Penalties and Prosecution of Offenses Committed under Them.

SEC. 32. Nothing herein contained shall affect or abate any prosecutions already commenced for any violation of any law hereby repealed, nor shall this bill operate to release any person for any violation of any such law, but all such violations, whether prosecutions have or have not been heretofore begun, shall be prosecuted and punished as if such laws were still in force.

SEC. 33. That this act shall take effect and be in force from and after the first day of June, A. D. 1902.

Approved, February 13, 1902.

Chapter 113, Laws of Mississippi, 1904.

An act to make an appropriation to purchase or build a patrol boat for the use of the board of oyster commissioners and the inspectors appointed by said board in patrolling the waters of the Mississippi sound in protecting the natural reefs in said sound.

Appropriation to Purchase a Patrol Boat for Protecting Oyster Reefs.

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That the sum of three thousand dollars ($3,000), or so much thereof as may be necessary, is hereby appropriated out of the oyster fund for the purpose of purchasing or building a suitable patrol boat to be used by said oyster commission and the inspectors appointed by said board in patrolling the waters of

the Mississippi sound, in protecting the natural oyster reefs and enforcing the provisions of chapter 58, Acts of 1902.

Oyster Commission to Purchase Patrol Boat.

SEC. 2. That said board of oyster commissioners is hereby authorized to purchase said patrol boat and pay therefor out of the appropriation herein provided for.

May Build Same if Suitable Boat Cannot be Purchased.

SEC. 3. That in the event that a suitable patrol boat cannot be found, said oyster commission is hereby authorized to have said patrol boat built by some competent mechanic and boat builder, according to plans and specifications furnished by said board and under the direction and supervision of said board. That said board of oyster commission- shall draw their warrants for the purchase or for the building of said boat as now provided by law out of the oyster fund, not to exceed the said sum of three thousand dollars ($3,000) and shall submit an itemized account of all expenditures made under the provision- of this act in their report to the legislature.

SEC. 4. That this act take effect from and after its passage.
Approved March 18, 1904.

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. No. 49. Filed Aug. 20, 1904. Wm. D. Ballard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2161 MISS. DOCUMENT NO. 50.

By the King. A Proclamation. George R.

Whereas, we have taken into our royal consideration the extensive and valuable acquisitions in America, secured to our crown by the late definitive treaty of peace concluded at Paris the 10th day of February last; and being desirous that all our loving subjects, as well of our kingdom as of our colonies in America, may avail themselves, with all convenient speed, of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation; we have thought fit, with the advice of our privy council, to issue this our royal proclamation, hereby to publish and declare to all our loving subjects, that we have, with the advice of our said privy council, granted our letters patent under our great seal of Great Britain, to erect, within the countries and islands ceded and confirmed to us by the said treaty, four distinct and separate governments, filed and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz.

First, the government of Quebec, bounded on the Labrador coast
the River St. John, and from thence by a line drawn from the
of that river, through the Lake St. John, to the south end of
Lake Nippissim; from whence the said line, crossing the River
Lawrence and the Lake Champlain in 45 degrees of north
ude, passes along the High Lands, which divide the rivers that
pty themselves into the said River St. Lawrence, from those
ich fall into the sea; and also along the north coast of the Baye
Chaleurs, and the coast of the gulf of St. Lawrence to Cape
anes, and from thence crossing the mouth of the River St. Law-
ce by the west end of the island of Anticosti, terminates at the
said River St. John.

Secondly. The government of East Florida, bounded to the west-
d by the gulf of Mexico and the Apalachicola river; to the
thward, by a line drawn from that part of the said river where
e Catahouchee and Flint rivers meet, to the source of St. Mary's
er, and by the course of the said river to the Atlantic ocean;
d to the east and south by the Atlantic ocean, and the gulf of
rida, including all islands within six leagues of the sea coast.

Thirdly. The government of West Florida, bounded to the south-
d by the gulf of Mexico, including all islands within six leagues
the coast from the River Apalachicola to Lake Pontchartrain;
the westward by the said lake, the Lake Maurepas, and the River
sissippi; to the northward, by a line drawn due east from that
t of the River Mississippi which lies in thirty-one degrees north
ude, to the River Apalachicola, or Catahouchee; and to the
tward by the said river.

Fourthly. The government of Grenada, comprehending the island
that name, together with the Grenadines, and the islands of Do-
ica, St. Vincent, and Tobago. * * *

Given at our court at St. James's the 7th day of October, 1763, in
third year of our reign.

God save the king.

(Annual Register vol. 6, 1763, page 208.)

(Endorsed:) Louisiana vs. Mississippi Miss. Doc. No. 50 Filed
20 04 Wm. D. Bullard, commissioner. Office Supreme
t U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2162 MISS. DOCUMENT No. 51.

Extract from His Most Christian Majesty's letter to M. d'Abbadie, director general and commandant for His Majesty in Louisiana, ordering him to deliver up to His Catholic Majesty all the French possessions in North America not already ceded to Great Britain. From the original, printed by Denis Brand, printer to the king at New Orleans, in October, 1764, and circulated amongst the French inhabitants there.

Mons. d'Abbadie:

By a special act, done at Fontainebleau, Nov. 3, 1762, of my own will and mere motion, having ceded to my very dear and beloved cousin the King of Spain, and to his successors, in full property, purely and simply, and without any exceptions, the whole country known by the name of Louisiana, together with New Orleans, and the island in which the said city is situated; and by another act done at the Escurial Nov. 13, in the same year, His Catholic Majesty having accepted the session of the said country of Louisiana, and the city and island of New Orleans, agreeable to the copies of the said acts, which you will find hereunto annexed; I write you this letter to inform you, that my intention is, that on receipt of these presents, whether they come to your hands by the officers of His Catholic Majesty, or directly by such French vessels as may be charged with the same, you are to deliver up to the governor, or officer appointed for that purpose by the King of Spain, the said country and colony of Louisiana, and the posts thereon depending, likewise the city and island of New Orleans, in such state and condition as they shall be found to be in on the day of the said cession, willing that in all time to come they shall belong to His Catholic Majesty, to be governed and administered by his governors and officers, and as possessed by him in full property without any exceptions.

At the same time, I hope for the prosperity and peace of the inhabitants of the colony of Louisiana, and promise myself, from the friendship and affection of His Catholic Majesty, that he will be pleased to give orders to his governor, and all other officers employed in his service in the said colony, and in the city of New Orleans, that the ecclesiastics and religious houses which have the care of the parishes and of the missions, may continue to exercise their functions, and enjoy the rights, privileges and immunities, granted by their several charters of establishment; that the ordinary judges do continue, together with the superior council, to administer justice according to the laws, forms, and usages of the colonies; that the inhabitants be preserved and maintained in their possessions; that they be confirmed in the possession of their estates, according to the grants which have been made by the governors and directors of the colony, and that all the grants be holden and taken as confirmed by His Catholic Majesty, even though not as yet confirmed by me.

Hoping, above all, that His Catholic Majesty will be pleased to bestow on his new colony of Louisiana the same marks of protection and good will, which they enjoyed while under my dominion, and of which the misfortunes of war alone have prevented their experiencing greater effects, I command you to cause my present letter to be recorded in the superior council of New Orleans, to the end that the several estates of the colony may be informed of its contents, and may have resource thereto when necessary. And the present being for no other purposes, I pray God, Monf .d'Abbadie, to have you in his holy keeping.

Given at Versailles, April 21, 1764.

(Signed) LOUIS.

2163 (Page 271, vol. 8 (London 1784) Annual Register for 1765.)

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. No. 51. Filed Aug. 20, '04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2164 MISS. DOCUMENT NO. 52.

Extract.

James Madison, Secretary of State, to Robert R. Livingston, Minister to France, Dated .

DEPART. OF STATE, September 28, 1801.

You have been already informed of the intention of the President that your departure from France should be hastened, and that you would be furnished with a passage in the Boston frigate, which, after landing you at Bordeaux, is to proceed to the Mediterranean.

From different sources information has been received that, by some transaction concluded, or contemplated between France and Spain, the mouth of the Mississippi, with certain portions of adjacent territory, is to pass from the hands of the latter to the former nation. Such a change of our neighbors in that quarter is of too momentous concern not to have engaged the most serious attention of the Executive. It was, accordingly, made one of the subjects of instruction to Mr. Charles Pinckney, our minister ple-ipotentiary to the court of Spain. You will find an extract of the passage hereto annexed, No. 1. A paragraph connected with the same subject, in a letter to Mr. King, is also extracted and annexed, No. 2. In these extracts you will see the ideas entertained by the Executive, and the general considerations which, it is presumed, will have most tendency to dissuade the parties from adhering to their object. As soon as you shall have prepared the way by the necessary inquiries at Paris, it will be proper for you to break the subject to the French government, and to make the use of these considerations

most likely to give them their full weight. You will probably find it advantageous to press, in a particular manner, the anxiety of the United States to maintain harmony and confidence with the French Republic, the danger to which these will be exposed by collisions, more or less inseparable from a neighborhood under such circumstances, and the security which France ought to feel that it cannot be the interest of this country to favor any voluntary or compulsive transfer of the possessions in question from Spain to France.

Among other topics to be employed on this occasion, you may, perhaps find it eligible to remark on the frequent recurrence of war between France and Great Britain, the danger to which the western settlements of the United States would be subject of being embroiled by military expeditions between Canada and Louisiana, the inquietudes which would be excited in the Southern States, whose numerous slaves have been taught to regard the French as the patrons of their cause, and the tendency of a French neighborhood, on this and other accounts, to inspire jealousies and apprehensions which may turn the thoughts of our citizens towards a closer connexion with her rival, and possibly produce a crisis in which a very valuable part of her dominions would be exposed to the joint operation of a naval and territorial power. Suggestions of these kinds must be managed with much delicacy; or rather the expediency of hazarding them at all, as well as the manner of doing it, must be left to your own information and discretion.

Should it be found that the cession from Spain to France has irrevocably taken place, or certainly will take place, sound policy will require, in that state of things, that nothing be said or done which will unnecessarily irritate our future neighbors, or check the liberality which they may be disposed to exercise in relation to the trade and navigation through the mouth of the Mississippi; every thing being equally avoided, at the same time, which may compromit the rights of the United States beyond those stipulated in the treaty between them and Spain. It will be proper, on the contrary, to patronize the interests of our western fellow-citizens, by cherishing in France every just and liberal disposition towards their com-
2165 merce. In the next place, it will deserve to be tried whether France cannot be induced to make over to the United States the Floridas, if included in the cession to her from Spain, or at least West Florida, through which several of our rivers, particularly the important River Mobile, empty themselves into the sea. Such a proof, on the part of France, of good will towards the United States, would contribute to reconcile the latter to an arrangement in itself much disrelished by them, and to strengthen the returning friendship between the two countries; and, by affording a fund for indemnifying and soothing our fellow-citizens who have suffered from her wrongs, would, in that view, also, be a measure founded not less in an enlarged policy, than in solid justice. The great importance of West Florida to the United States recommends to your patriotism

he prudent use of every fair consideration which may favor the at-ainment of the object.

These ideas suppose that the cession to the United States is to be btained from the single will of France. But it may happen that he Floridas are so far suspended, on unfinished negotiations be-ween her and Spain, as to admit or require the concurrence of both n gratifying the wishes of the United States. In this state of things, rance may yield to the considerations suggested with less of con-ession and reluctance; and as Spain, to-, must feel an interest in the ood will of the United States, and is responsible, in justice, for very onsiderable depredations on their commerce, there may be the reater possibility of her joining in the measure.

Should the Floridas neither have been ceded to France, nor be an equisition contemplated by her, still it will be material, considering er intimate and influential relations to Spain, to dispose her to favor xperiments on the part of the United States, for obtaining from Spain he cession in view. The interest which the latter has in cultivating ur friendly dispositions, and the obligation she is under to satisfy ur claims for spoilations, for doing which no other mode may be so onvenient to her, are motives to which an appeal may be made ith no inconsiderable force. Mr. Pinckney is accordingly to avail imself of the most auspicious occasions for sounding and exciting he dispositions of the Spanish government on this subject; and our efforts at Paris cannot be too attentively combined with his at Madrid, as well on the last supposition that Spain alone is to make he cession, as on the former, that France is to have a direct share n the transaction. Mr. Pinckney's instructions will relate to each lternative, and you will be sensible of the advantages of such a orrespondence between you as will give the proper concert to your perations.

(American State Papers (Foreign Relations), vol. 2, page 510.)

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 52. Filed Aug. 0, '04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. iled Mar. 13, 1905 James H. McKenney, clerk.

166 MISS. DOCUMENT No. 53.

(Extract *of* a Letter of Albert Gallatin, Esq., to J. Madison, Esq.)

DATE FEB'Y 7, 1803.

If West Florida can alone be purchased, it is certainly worth at-nding to; but in that case, making the River Iberville the bound-ry, as it was made in the treaty of 1762, between France and Eng-nd, the article should be so worded as to give us the whole channel that river, or at least to permit us to open it, so as to render it avigable in all seasons. At present, the bed is 30 feet above low-ater mark for 15 miles, from the Mississippi to Amit river; but I

have no doubt that a very small opening would be widened and deepened afterwards by the river. There is no obstruction, the whole being level, or mud or sand. But supposing even a portage there, the advantage of American houses settled in a- American port would soon give a preference over New Orleans to that port. The seaport may be, perhaps, on the main, between Pearl and Pargacola rivers, but certainly on that island called "Ship island," as through the passage between that and the next island there are more than 20 feet water, and good anchorage close to the shore, which faces the main. A frigate of 36 guns was seen there by E. Jones, (the first clerk in my office, who is a brother of our late consul at New Orleans, and lived ten years with him in West Florida,) and it is the reason of its bearing that name. Judge Bay says that there is another island called Deer island, close to the entrance of Lake Pontchartrain, which affords the same advantages. That Jones disbelieves; but the other is certain; and as it is about half way between Mobile and the lake, as the whole navigation between these two places is locked in by the islands, and safe even for open boats and canoes, that island would become the proper seaport for both rivers, Mississippi and Mobile; for you can bring but nine feet up Mobile bay, 7 feet over the bar of Lake Pontcgartrain, and 15 over the bar at the mouth of the Mississippi. It results from all that, that the possession of West Florida, even without New Orleans island, is extremely important and that if it can be obtained, it ought expressly to include all the islands within twenty leagues, or such distance as to include those which are marked on the map.

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. 53. Filed Aug. 20/04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2167 MISS. DOCUMENT NO. 54.

Letter of Secretary of State to Mr. Monroe, Minister to Spain, of Date July 29, 1803.

The communications by Mr. Hughes, including the treaty and conventions signed with the French government, were safely delivered on the 14th instant. Enclosed is a copy of a letter written in consequence of them to Mr. Livingston and yourself.

On the presumption which accords with the information given by Mr. Hughes, that you will have proceeded to Madrid, in pursuance of the instructions of the 17th February last, it is thought proper to observe to you, that although Louisiana may, in some respects, be more important than the Floridas, and has more than exhausted the funds allotted for the purchase of the latter, the acquisition of the Floridas is still to be pursued, especially as the crisis must be favorable to it.

You will be at no loss for the arguments most likely to have weight in prevailing on Spain to yield to our wishes. These colonies, separated from her other territories on this continent by New Orleans, the Mississippi, and the whole of western Louisiana, are now of less value to her than ever; whilst to the United States they retain the peculiar importance derived from their position, and their relations to us through the navigable rivers, running from the United States into the gulf of Mexico. In the hands of Spain, they must ever be a dead expanse in time of peace; indefensible in time of war, and at all times a source of irritation and ill blood with the United States. The Spanish government must understand, in fact, that the United States can never consider the amicable relations between Spain and them as definitely and permanently secured, without an arrangement on this subject, which will substitute the manifest indications of nature for the artificial and inconvenient state of things now existing.

The advantage to be derived to your negotiations from the war that has just commenced will certainly not escape you. Powerful, it might be presumed effectual, use may be made of the fact that Great Britain meant to seize New Orleans with a view to the anxiety of the United States to obtain it; and of the inference from that fact that the same policy will be pursued with respect to the Floridas. Should Spain be engaged in the war, it cannot be doubted that they will be quickly occupied by a British force, and held out on some condition or other to the United States. Should Spain be still at peace, and wish not to lose her neutrality, she should reflect that the facility and policy of seizing the Floridas must strengthen the temptations of Great Britain to force her into the war. In every view it will be better for Spain that the Floridas should be in the hands of the United States than of Great Britain; and equally so that they should be ceded on beneficial terms by herself, than that they should find their way to us through the hands of Great Britain.

The Spanish government may be assured of the sincere and continued desire of the United States to live in harmony with Spain; that this motive enters deeply into the solicitude of their government for a removal of the danger to it which is inseparable from such a neighborhood as that of the Floridas; and that, having by a late convention with Great Britain adjusted every territorial question and interest with that nation, and the treaty with France
2168 concerning Louisiana having just done the same with her, it only remains that the example be copied into an arrangement with Spain, who is evidently not less interested in it than we are.

By the enclosed note of the Spanish minister here, you will see the *the* refusal of Spain to listen to ou. past overtures with the reasons for the refusal. The answer to that communication is also enclosed. The reply to such reasons will be very easy. Neither the reputation nor the duty of His Catholic Majesty can suffer from any measure founded in wisdom and the true interests of Spain. There is as little

ground for supposing that the maritime powers of Europe will complain of, or be dissatisfied, with a cession of the two Floridas to the United States, more than with the late cession of Louisiana by Spain to France, or more than with the former cessions through which the Floridas themselves have passed. What the treaties are subsequent to that of Utrecht, which are alleged to preclude Spain from the proposed alienation, have not been examined. Admitting them to exist in the sense put upon them, there is probably no maritime power who would not readily acquiesce in our acquisition of the Floridas as more advantageous to itself, than the retention of them by Spain. Shut up against all foreign commerce, and liable at every moment to be thrown into the preponderant scale of Great Britain, Great Britain her self would unquestionably have no objection to their being transferred to us, unless it should be drawn from her intention to conquer them for herself, or from the use she might expect to make of them in a negotiation with the United States. And with respect to France, silence at least is imposed on her by the cession to the United States of the province ceded to her by Spain, not to mention that she must wish to see the Floridas, like Louisiana, kept out of the hands of Great Britain; and has, doubtless, felt that motive in promising her good officers with Spain for obtaining these possessions for the United States. Of this promise, you will, of course, make the proper use in your negotiations. For the price to be given for the Floridas, you are referred, generally, to the original instructions on this point. Although the change of circumstances lessens the anxiety for acquiring immediately a territory which now more certainly than ever, must drop into your hands, and, notwithstanding the pressure of the bargain with France on our Treasury, yet, for the sake of a peaceable and fair completion of a great object, you are permitted by the President, in case a less sum will not be accepted, to give two millions and a quarter of dollars, the sum heretofore apportioned to this purchase. It will be expected, however, that the whole of it, if necessary, be made applicable to the discharge of debts and damages claimed from Spain, as well those not yet admitted by the Spanish government as those covered by the convention signed with it by Mr. Pinckney, on the 11th day of August, 1802, and which was not ratified by the Senate, because it embraced no more of the just responsibilities of Spain. On the subject of these claims you will hold a strong language. The Spanish government may be told plainly that they will not be abandoned any further than an impartial tribunal may make exceptions to them. Energy in the appeal to its feelings will not only tend to justice for past wrongs, but to prevent a repetition of them in case Spain should become a party to the present war.

In arranging the mode, the times, and the priorities, of paying the assumed debts, the ease of the Treasury is to be consulted as much as possible: less is not to be done with that view than was enjoined in the case of the French debts to our citizens. The stock to be engaged in the transaction is not to be made irredeemable without a

necessity not likely to arise; and the interest, as well as the
2169 principal, should be payable at the Treasury of the United States. The only admissable limitation, on the redemption of the stock, is that the holder shall not be paid off in less than about one fifth or one fourth of the amount in one year.

Indemnifications for the violation of our deposite at New Orleans have been constantly kept in view in our remonstrances and demands on that subject. It will be desirable to comprehend them in the arrangement. A distinction, however, is to be made between the positive and specific damages sustained by individuals, and the general injuries accruing from that breach of treaty. The latter could be provided for by a gross and vague estimate only, and need not be pressed as an indispensable condition. The claim, however, may be represented as strictly just, and a forbearance to insist on it as an item in the valuable considerations for which the cession is made. Greater stress may be laid on the positive and specific damages capable of being formerly verified by individuals; but there is a point beyond which it may be prudent not to insist even here; especially as the incalculable advantage accruing from the acquisition of New Orleans will diffuse a joy throughout the western country, that will drown the sense of these little sacrifices. Should no bargain be made on the subject of the Floridas, our claims of every sort are to be kept in force.

If it be impossible to bring Spain to a cession of the whole of the two Floridas, a trial is to be made for obtaining either, or any important part of either. The part of West Florida adjoining the territories now ours, and including the principal rivers falling into the Gulf, will be particularly important and convenient.

It is not impossible that Spain, in treating on a cession of the Floridas, may propose an exchange of them for Louisiana beyond the Mississippi, or may make a serious point of some particular boundary, to that territory. Such an exchange is inadmissable.

In intrinsic value there is no equality; besides the advantage given us by the western bank of the entire jurisdiction of the river. We are the less disposed also to make sacrifices to obtain the Floridas, because their position and the manifest course of events guaranty an early and reasonable acquisition of them. With respect to the adjustment of a boundary between Louisiana and the Spanish territories, there might be no objection to combining it with a cession of the Floridas, if our knowledge of the extent and character of Louisiana were less imperfect. At present, any arrangement would be a step too much in the dark to be hazarded; and this will be a proper answer to the Spanish government. Perhaps the intercommunications with the Spanish government on this subject, with other opportunities at Madrid, may enable you to collect useful information and proofs of the fixed limits, or of the want of fixed limits, to western Louisiana. Your *injuries* may also be directed to the question, whether any, and how much, of what passes for West Florida, be fairly included in the territory ceded to us by France?

The treaties and transactions between Spain and France will claim particular attention in this inquiry.

Should no cession whatever be attainable, it will remain only for the present to provide for the free use of the rivers running from the United States into the Gulf. A convenient deposite is to be pressed as equally reasonable there as on the Mississippi; and
2170 the inconveniency experienced on the latter from the want of a jurisdiction over the deposite, will be an argument for such an improvement of the stipulation. The free use of those rivers for our external commerce is to be insisted on as an important right, without which the United States can never be satisfied; and without an admission of which, by Spain, they can never confide either in her justice or her disposition to cultivate harmony and good neighborhood with them. It will not be advisable to commit the United States into the alternative of war, or a compliance on the part of Spain; but no representation short of that can be stronger than the case merits.

The instruction to urge on Spain some provision for preventing or rectifying by a delegated authority, here, aggressions and abuses committed by her colonial officers, is to be regarded as of high importance. Nothing else may be able to save the United States from the necessity of doing themselves summary justice. It cannot be expected that they will long continue to wait the delays and the difficulties of negotiating, on every emergency, beyond the Atlantic. It is more easy, and infinitely more just, that Spain and other European nations should establish a remedy on this side of the Atlantic, where the source of the wrongs is established, than that the complaints of the United States should be carried to the other side, and, perhaps, wait till the Atlantic has moreover been twice crossed in procuring information for the other party, without which a decision may be refused.

The navigation of the bay of St. Mary's is common to Spain, and the United States; but a light-house, and the customary water marks, can be established within the Spanish jurisdiction only. Hitherto, the Spanish officers have refused every proper accommodation on this subject. The case may be stated to the government of Spain, with our just expectation that we may be permitted either to provide the requisite establishments ourselves, or to make use of those provided by Spain.

This letter will be addressed to Madrid; but as it is possible that you may not have left Paris, or may have proceeded to London, a copy will be forwarded to Paris, to be thence, if necessary, sent on to London. In case it should find you either at Paris or London, it must be left to your own decision how far the call for you at either of those places ought to suspend these instructions. Should you desire to go to Madrid, it may be proper first to present your credence to the French or British government, as the case may be; and to charge a fit person with the public business during your absence. Should you even be at Paris, and your commission filled up in Lon-

don, it may be best to proceed first to London, if the call to Madrid be not very urgent.

I shall write to Mr. Pinckney, and inform him that this letter is intended for his use jointly with yours; though addressed to you alone, because in part not applicable to him. Should you suspend, or have suspended, your visit to Madrid, you will please to write to him also, giving him your ideas as to the expediency of prosecuting the object of the joint instructions or not until you can be with him.

I have the honor to be &c.

JAMES MADISON.

(American State Papers (Foreign Relations), vol. II, p. 626.)

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 54 Filed Aug. 20, '04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905 James H. McKenney, clerk.

2171 MISS. DOCUMENT NO. 55.

Extracts from another letter of instructions addressed to Mr. Monroe, April 15, 1804, as minister extraordinary, jointly with Charles Pinckney, Esq., to the court of Spain, with which was enclosed a draft of an agreement to be proposed and obtained if possible.

Sections 1 and 2 of article 1 of the proposed agreement are as follows:

Art. 1, § 1. Spain acknowledging and confirming to the United States the cession of Louisiana, in an extent eastwardly to the River Perdido, cedes to them forever all the territory remaining to her between the Mississippi, the Atlantic, and the gulf of Mexico, together with *all* the islands annexed thereto, either whilst the Floridas belonging to Great Britain, or after they became provinces of Spain.

Or, if the article be unattainable in that form, Spain cedes to the United States forever all the territory, with the islands belonging thereto, which remain to her between the Mississippi, the Atlantic, and the gulf of Mexico.

§ 2. Possession of the said territory shall be delivered to a person or persons authorized by the United States to receive the same, within — days, or less, if practicable, after the exchange of the ratifications of this convention. With the said territory shall be delivered all public property, excepting ships and military stores, as also all public archives belonging to the provinces comprehending the said territory.

Then, in commenting upon these sections, the author continues.

The first form of article 1, § 1, is preferred, because it explicitly recognizes the right of the United States under the treaty of St. Ildefonso, and of April 30, 1803, to the River Perdido, which is con-

structively provided for only in the second form. It is indispensable that the United States be not precluded from such a construction, first, because they consider the right as well founded; secondly, and principally, it is known that a great proportion of the most valuable lands between the Mississippi and the Perdido have been granted by Spanish officers since the cession was made by Spain.

These illicit speculations cannot otherwise be frustrated than by considering the territory as included in the cession made by Spain, and thereby making void all Spanish grants of subsequent date.

It is represented that these grants have been extended, not only to citizens of the United States, but to others whose interests now lies in supporting the claim of Spain to that part of Louisiana, in opposition to that of the United States. It is conjectured that M. Laussat himself has entered into these speculations, and that he felt their influence in the declaration made confidently to our commissioners at New Orleans, that no part of West Florida was included in Louisiana.

In supporting the extent of Louisiana to the Perdido, you will find materials for your use in the extent above referred to, and the other documents annexed, to which you will add the result of your own reflections and researches. The secret treaty between France and Spain, ceding Louisiana west of the Mississippi to Spain, and which has never been printed, may doubtless be obtained at Paris, if not at Madrid, and may be of use in the discussion. From the references in the French orders of 1764, for the delivery of the province, it is presumed to be among archives at New Orleans; and Governor Claiborne has been requested to send a copy of it: but it may not be received in time to be forwarded for your use. In an English work, "The Life of Chatham," printed in 1793, for J. S. Gordon, London, No. 166, Fleet street, I find a memorial referred to
2172 but not there printed, with the other negotiations preceding the peace of 1762–'3, expressly on the subject of the limits of Louisiana, and, as sufficiently appears, with a view to give the province its extent to the Perdido. You will perhaps be able to procure in London or Paris a sight of this document: it probably contains most of the proofs applicable to the question, and will be the more important as proceeding from France; it will strengthen our lien on her seconding our construction of the treaty. The memorial will be the more important still, if it should be found to trace the western limits also of Louisiana, and to give it a corresponding extent on that side. In page 416 and sequel of vol. 1, you will see the fact established that the Floridas, including the French part, were ceded to Great Britain as the price for the restoration of Cuba, and that, consequently, the French part now claimed by the United States was a cession purely for the benefit of Spain.

The reasons, beyond the advantages held out in the arrangement itself, which may be addressed to Spain, as prompting a cession of her remaining territory eastward of the Perdido, will be found in the remarks in the extract aforesaid, in the instructions to Mr. Pinck-

ney and yourself of the 17th day of February last, and in those which have from time to time been given to Mr. Pinckney. The Spanish government cannot but be sensible that the expense of retaining any part of that territory must now more than ever exceed any returns of profit; that, being now more than ever indefensible, it must the more invite hostile expeditions against it from European enemies; and that, whilst in her hands, it must be a constant source of danger to harmony with the United States.

(American State Papers, (Foreign Relations) vol. II, pp. 628, 629.)

(Endorsed:) Louisiana *v.* Mississippi Miss. Doc. No. 55 Filed Aug. 20, '04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

2173 MISS. DOCUMENT No. 56.

Letter of James Madison to Messrs. Monroe and Pinckney, of Date July 8, 1804.

GENTLEMEN: Since the instructions given you on the 15th of April last, further views have been obtained with respect to the interior of Louisiana, and the value which Spain will probably put on such a limitation of our settlements beyond the Mississippi as will keep them for some time at a distance from hers. The President has accordingly become the more anxious that, in the adjustment authorized by those instructions, the terms may be made favorable to the United States. He does not, indeed, absolutely restrain you from yielding to the ultimatum therein fixed, in case it be required by the inflexibility of the Spanish government, and particularly by the posture and prospect of affairs in Europe; but he is not a little averse to the *occulsion*, for a very long period, of a very wide space of territory westward of the Mississippi, and equally so to a perpetual relinquishment of any territory whatever eastward of the Rio Brovo. If this river could be made the limit to the Spanish settlements, and the Rio Colorado the limit to which those of the United States may be extended; and if a line northwest or west from the source of whatever river may be taken for the limit of our settlements could be substituted for the ultimatum line running from the source of the Sabine to the junction of the Osages with the Missouri, and thence, northward, parallel with the Mississippi, the interval to be unsettled for a term of years would be defined in a manner peculiarly satisfactory. The degree, however, in which you are to insist on these meliorations of the arrangement, must be regulated by your discretion, and by the effect which the probable course of events will have on the temper and policy of Spain. Should she be engaged in the war, or manifestly threatened with that situation, she cannot fail to be the more anxious for a solid accommodation on all points with

the United States; and the more willing to yield, for that purpose, to terms, which, however proper in themselves might otherwise be rejected by her pride and misapplied jealousy. According to the latest accounts from Great Britain, a revolution in the ministry, if not a change on the throne, was daily expected; and, from either of those events, an extension of the war to Spain, if not precluded by the less probable event of a speedy peace with France, would be a very natural consequence. It is to be understood, that a perpetual relinquishment of the territory between the Rio Bravo and Colorado is not to be made, nor the sum of — dollars paid without the entire cession of the Floridas; nor any money paid in consideration of the acknowledgment by Spain of our title to the territory between the Iberville and the Perdido. But a proportional sum out of the — dollars may be stipulated for a partial cession of territory eastward of the Perdido. If neither the whole nor part of East Florida can be obtained, it is of importance that the United States should own the territory as far as the Appalachicola, and have a common, if not exclusive right to navigate that stream. I must repeat that great care is to be taken that the relinquishment by Spain of the territories westward of the Perdido be so expressed as to give to the relinquishment of the Spanish title the date of the treaty of St. Ildefonso. The reason for this was before explained, and is strengthened by recent information, as you will find by the annexed extract of a letter from Governor Claiborne. Other proofs might be added. In any further cession of territory, it may be well so to define it, as to guard
2174 as much as possible against grants irregular or incomplete, or made by Spanish officers in contemplation of such a cession.

On entering into conferences with the Spanish ministry, you will propose and press, in the strongest manner, an agreement that neither Spain nor the United States shall, during the negotiation, strengthen their situation in the territory between the Iberville and the Perdido, and that the navigation of the Mobile shall not be interrupted. An immediate order from the Spanish government to this effect may be represented as of the greatest importance to the good understanding between the two countries; and that the forbearance of the United States thus long is a striking proof of their sincere desire to maintain it. If such an order should be declined, you will not fail to transmit the earliest information of it, as well as to keep up such representations to that government on the subject, as will impress it with the tendency of so unreasonable and unfriendly a proceeding to drive the United States into arrangements for balancing the military force of Spain in that quarter, and for exerting their right of navigation through the Mobile. This navigation has become important, or rather essential; and a refusal of Spain to acquiesce in it must commit the peace of the two nations to the greatest hazard. The posture of things there is already extremely delicate, and calls for the most exemplary moderation and liberality in both the governments. As a proof of it, I enclose a correspondence between Governor Claiborne and the Spanish govern-

ment at Pensacola, on the same subject as that of mine with the Marquis de Yrujo, already transmitted to you.

I have the honor &c. &c.

JAMES MADISON.

(American State Papers (Foreign Relations), vol. II, p. 630.)

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 56. Filed Aug. 20-'04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

2175 MISS. DOCUMENT No. 57.

Extract from Message of Thomas Jefferson, President of the United States, to Both Houses of Congress, November 8, 1804.

* * * * * * *

Soon after the passage of the act of the last session, authorizing the establishment of a district and port of entry on the waters of the Mobile, we learned that its object was misunderstood on the part of Spain. Candid explanations were immediately given, and assurances that, reserving our claims in that quarter as a subject of discussion and arrangement with Spain, no act was meditated in the mean time inconsistent with the peace and friendship existing between the two nations; and that conformably to these intentions would be the execution of the law. That government had, however, thought proper to suspend the ratification of the convention of 1802. But the *the* explanations which would reach them soon after, and still more the confirmation of them by the tenour of the instrument establishing the port and district, may reasonably be expected to replace them in the disposition and views of the whole subject, which originally dictated the convention.

Vol. 5 of State Papers, 1803-'7, second edition, published in 1817, page 27.

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 57 Filed Aug. 20'04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

2176 MISS. DOCUMENT No. 58.

Extract from Letter of Mr. Monroe to Mr. Talleyrand, of Date Nov. 8, 1804.

SIR: Before the conclusion of the late treaty between the United States and France, Your Excellency will recollect that it was an object of the President to acquire of Spain, by amicable arrangement, Florida; it being that portion of her territory which she held east-

ward of the Mississippi. It was also his object, after the conclusion of that treaty, not that it was pressed by such imperious considerations as before, but that, as it would contribute to remove all cause of uneasiness and jealously between the two powers, they might adopt and harmonize in future such a system of policy as might secure to them peace, and give additional protection to their possessions in that quarter, especially to those of Spain. In the conferences which produced the treaty above mentioned, the good offices of His Imperial Majesty were engaged to the United States in any negotiation which the President might commence with the Catholic King, for the acquisition of Florida. The same assurance was renewed after the conclusion of the treaty, though it was intimated that that was not a suitable time for the commencement of such a negotiation. It was, on that intimation, as Your Excellency will also recollect, at a moment when I was about to set out for Spain in pursuit of the object, (the then recent orders of the President permitting it,) that I postponed my journey thither, and took a different position. The proposed negotiation with Spain was, in consequence, and has since remained, suspended; and it was in obedience to late orders from my Government that I am now so far on my way to Madrid on that subject, and that Mr. Livingston has requested the good offices of the Emperor in support of it. It is proper here to remark, that, since the epoch referred to, the treaty then just concluded between the United States and France has been carried in effect, in its great points, with that scrupulous attention to good faith which does to both parties the highest honor. Their conduct in that transaction gives to each a pledge for the integrity which is to prevail in their future intercourse. I may be permitted to add, that, as I declined my visit to Spain at that epoch, the more readily to give an opportunity for the complete execution of that treaty, so, now that it is carried into effect, I undertake it with the greater pleasure, since it confirms me in the confidence, before entertained, of the support which would be given to it by His Imperial Majesty.

The President has been induced to adopt this measure at this time, by considerations the most urgent. As these are inseparably connected with the proposed negotiation, indeed, form, in part, the object of it, it is due to the friendship subsisting between our governments, and to the candor which the President will never fail to observe in his transactions with the Emperor, to give you a distinct idea of them. They will, I doubt not, satisfy you that the President has heretofore shown a sincere desire to cultivate the friendship of the Catholic King, and that the attempt which he now makes to preserve that relation is a new and signal proof of that disposition.

Since the treaty between the United States and France, whereby Louisiana was ceded to the former, a question has arisen between those States and Spain, relative to the boundaries of the ceded territory. It is understood that the government of Spain entertains an idea that that cession comprises only that portion of Louisiana
2177 which was ceded to it by France in 1762; that it does not comprise that portion also which was ceded by her, at the

same time, to Great Britain, distinguished, while in her possession, by the name of West Florida. This pretension of the court of Spain cannot, it is presumed, be supported by even the color of an argument. Had that been the intention of the parties in the treaty of St. Ildefonso, it would have been easy to have provided for it. The idea was a simple one, which a few plain words would have expressed. But the language of the article referred to conveys a very different sentiment. We find in it nothing which countenances a presumption that the emperor meant to retake from Spain only a portion of Louisiana, or to refer to it in a dismembered state. It was natural to suppose, in accepting a retrocession of that province from a power possessed of the whole, that he would take it entire, such as it was when France possessed it. Accordingly, we find that the terms of the article making the cession are as full and explicit to that object as it was possible to use. It is not stipulated that Spain should cede to France that portion of Louisiana only which she had received from France, or that West Florida should be excepted from the cession. It is, on the contrary, stipulated that she shall cede it such as it was when France possessed it; that is, such as it was before it was dismembered by the cessions afterwards made to Spain by Great Britain; that she should cede it with the same extent that it now has in the hands of Spain; that is, entire, which it became by the treaty of 1783, whereby West Florida was ceded by Great Britain to Spain; such as it is according to subsequent treaties between Spain and other powers: a stipulation which does honor to His Catholic Majesty, since it proves that, in making the cession to France, he intended to cede only what he had a right to cede; that he recollected the treaty which he had concluded with the United States in 1795, knew the extent of its obligations, and was resolved to execute them with good faith. Your Excellency will receive, within, a paper containing an examination of the boundaries of Louisiana, which, it is presumed, proves incontestably the doctrine above advanced, as also that the River Perdido is the ancient, and, of course, present boundary of that province to the east, and the Rio Bravo to the west.

(American State Papers (Foreign Relations) vol. II, p. 634).

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 58. Filed Aug. 20 '04 Wm. D. Bullard, commissioner Office Supreme Court U. S. Filed Mar. 13, 1905 James H. McKenney, clerk.

2178 MISS. DOCUMENT No. 59.

Letter of Mr. Talleyrand to General Armstrong, of Date December 21, 1804.

SIR: I had the honor, in Brumaire last, to inform Mr. Livingston that I would submit to the inspection of His Imperial Majesty the letters he addressed to me relative to the motives of Mr. Monroe's

journey to Spain, and some discussions between the court of Madrid and the United States.

Among the observations made on this subject by Messrs. Livingston and Monroe, His Imperial Majesty has been obliged to give particular attention to those bearing on the discussions, of which the object is peculiarly interesting to the French government. He has perceived that he could not have been a stranger to the examination of these discussions, since they grew out of the treaty by which France has ceded Louisiana to the United States; and His Majesty has thought that an explanation, made with that fidelity which characterizes him, on the eastern boundaries of the ceded territory, would put an end to the differences to which this cession has given rise.

France, in giving up Louisiana to the United States, transferred to them all the rights over that colony which she had acquired from Spain; she could not, nor did she wish to, cede any other; and, that no room might be left for doubt in this respect, she repeated, in her treaty of 30th April, 1803, the literal ex-ressions of the treaty of St. Ildefonso, by which she has acquired that colony two years before.

Now it was stipulated, in her treaty of the year 1801, that the acquisition of Louisiana by France was a retrocession; that is to say, that Spain restored to France what she had received from her in 1762. At that period she had received the territory bounded on the east by the Mississippi, the River Iberville, the Lakes Maurepas and Pontchartrain; the same day France ceded to England, by the preliminaries of peace, all the territory to the eastward. Of this Spain had received no part, and could, therefore, give back none to France.

All the territory lying to the eastward of the Mississippi and the River Iberville, and south of the 32d degree of north latitude, bear the name of Florida. It has been constantly designated in that way during the time that Spain held it; it bears the same name in the treaties of limits between Spain and the United States; and, in different notes of Mr. Livingston of a later date than the treaty of retrocession, in which the name of Louisiana is given to the territory on the west side of the Mississippi; of Florida to that on the east of it.

According to this designation, thus consecrated by time, and even prior to the period when Spain began to possess the whole territory between the 31st degree, the Mississippi, and the sea, this country ought, in good faith and justice, to be distinguished from Louisiana.

Your Excellency knows that, before the preliminaries of 1762, confirmed by the treaty of 1763, the French possessions, situated near the Mississippi, extended as far from the east of this river, towards the Ohio and the Illinois, as in the quarters of the Mobile; and you must think it as unnatural, after all the changes of sovereignty which that part of America has undergone, to give the name

Louisiana to the district of Mobile, as to the territory more to
north, on the same bank of the river, which formerly belonged
France.

These observations, sir, will be sufficient to dispel every
9 kind of doubt, with regard to the extent of the retrocession
made by Spain to France, in the month of Vendemiare, year
It was under this impression that the French and Spanish pleni-
entiaries negotiated, and it was under this impression that I have
e had occasion to give the necessary explanations when a proj-
was formed to take possession of it. I have laid before His Im-
ial Majesty the negotiations of Madrid which preceded the treaty
801, and His Majesty is convinced that, during the whole course
hese negotiations, the Spanish government has constantly re-
d to cede any part of the Floridas, even from the Mississippi to
Mobile.

His Imperial Majesty has, moreover, authorized me to declare to
, that, at the beginning of the year 11, General Bournonville was
rged to open a new negotiation with Spain for the acquisition of
Floridas. This project, which has not been followed by any
ty, is an evident proof that France has not acquired, by the
ty retroceding Louisiana, the country east of the Mississippi.

The candor of these observations proves to you, sir, how much
ue His Majesty attaches to the maintenance of a good under-
nding between two powers, to whom France is united by con-
ions so intimate and so numerous. His Majesty, called upon to
e explanations on a question which interested France directly,
suades himself that they will leave no ground of misunderstand-
between the United States and Spain; and that these two powers,
mated, as they ought to be, by the sentiments of friendship which
r vicinity and their position render so necessary, will be able to
e with the same facility on the other subjects of their discus-
.

This result His Imperial Majesty will learn with real interest.
saw with pain the United States commence their differences
Spain in an unusual manner, and conduct themselves towards
Floridas by acts of violence, which, not being founded in right,
ld have no other effect but to injure its lawful owners. Such an
ression gave the more surprise to His Majesty, because the
ted States seemed, in this measure, to avail themselves of their
ty with France as an authority for their proceedings, and be-
se he could scarcely reconcile, with the just opinion which he
rtains of the wisdom and fidelity of the Federal Government, a
rse of proceedings, which nothing can authorize, towards a power
ch has long occupied, and still occupies, one of the first ranks in
ope.

ut the Federal Government having entered the path of negotia-
, and the question which divided the two powers being cleared
there is reason to hope that they will easily agree on the other

points; and His Majesty, from the sincere interest which he feels for the equal prosperity of the two nations, ardently desires.

Accept sir, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

(American State Papers (Foreign Relations) vol. II, p. 635.)

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 59 Filed Aug. 20 '04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

2180 MISS. DOCUMENT No. 60.

Extract from a Letter of Messrs. Monroe and Pinckney to Mr. Cevallos, of Date January 28, 1805.

There is another question which it is equally proper to adjust at this time. By the cession of Louisiana by His Majesty the Emperor of France to the United States, it becomes necessary to settle its boundary with the territories of His Catholic Majesty in that quarter. It is presumed that this subject is capable of such clear and satisfactory illustration, as to leave no cause for any difference of opinion between the parties. By the treaty of April 30, 1803 between the United States and France, the latter ceded to the former the said province, in full sovereignty, in the same extent, and with all the rights which belonged to it, under the treaty of October, 1800, by which she had acquired it of Spain. That the nature and extent of the acquisition might be precisely known, the article of the treaty of St. Ildefonso, making the cession, is inserted in that of Paris. To a fair and just construction, therefore, of that article the United States are referred for the extent of their rights under the treaty of 1803. There is nothing to oppugn its force or detract from the import of its very clear and explicit terms. We have the honor to present to Your Excellency a paper on this subject, which, we presume, proves, in the most satisfactory manner, that the boundaries of that province, as established by the treaties referred to, are the River Perdido to the east and the Rio Bravo to the west. The facts and principles which justify this conclusion are so satisfactory to our Government, as to convince it that the United States have not a better right to the island of New Orleans, under the cession referred to, than they have to the whole district of territory which is above described. Aware, however, that the question of boundary was one in which His Catholic Majesty was also interested, the President was not unmindful of what was due to that consideration. In pursuing and supporting the just rights of the United States, he is far from wishing to interfere with, or encroach on, those of Spain. As neighbors, he was also sensible of what was due to that interesting relation; and as a power which claims respect in its intercourse with

nations, he was resolved to give a distinguished proof of that United States for His Catholic Majesty in the present case. o step has been taken since the territory was surrendered to States by France, otherwise than a strong expression by the ss of its sense of their rights; no portion of it has been gar-, or even possessed by their troops, which could involve any n of the kind adverted to, or manifested a disposition incom- with these just and friendly sentiments. His definitive ar- ents are yet to be taken. He seeks to adopt them in har- with the sentiments and interests of His Catholic Majesty—a which induced the measure of an extraordinary mission, and s this communication.

r, we have treated of the boundary which of right ought to blished between the two nations. It is proper, however, to e and treat the subject in another view.

he acquisition of Louisiana, the United States and Spain have d, in some respects, a new relation to each other. It is in its a very interesting one. It is practicable, at this time, to place ch a footing, by suitable arrangements, as to preserve their ip for ages. The importance of the subject merits their very ionate consideration, since a failure to adopt such may be pro- of much harm. Happily, it is an unquestionable truth, that, n consideration of the permanent and substantial interest of he two powers, there does not exist at present a single point f collision, an opposing interest between them. There are me topics of uneasiness and jealousy easy to be removed, but f suffered to remain, may engender animosities, embitter their rse, and finally prove the cause of much trouble, and even ne, to both nations. To remove them requires no sacrifice; ontrary, much will be gained, since, by so doing, their har- nd with it their permanent interests, will be secured.

effect does the acquisition of Louisiana by the United States on the interests of the two powers in reference to each and what ought it to produce in their policy? These ques- mit a ready answer. That province is bounded by Florida st, and Mexico to the west; hence, Florida is surrounded on de, that of the ocean excepted by the territory of the United It is, of course, an object with those States to possess it. Louisiana extends westward to Mexico, it is presumed to be t with Spain to retard the progress of their settlements in rter. Here, then, is the obvious ground of an accord be- e two nations, in an arrangement which seems to be well to accomplish an object which each deems of importance. ect which we have the honor to present to Your Excellency is to conciliate and provide for those interests. It is believed adoption will effectually do so. Your Excellency must be under existing circumstances and especially since the acqui- Louisiana, that that of Florida has become an object of ss importance to the United States. It is not from the want

of territory, because it is known not to be fertile, and without it they have enough to satisfy their growing population for ages to come. It is, in truth, suggested more by a desire to remove all cause of a future variance between them and Spain, than of any immediate advantage to be derived from it in other respects. While that province remains to Spain, it must be, in some degree, a cause of jealousy to the United States. Situated in their interior, and detached from the other dominions of His Catholic Majesty, it is probable, to render it secure, that he would be compelled to put a strong force there. Hence, the United States would be compelled to do the same. Thus the attitude of hostilities would be taken, which a thousand causes would tend to promote. The jealousy of governments so contiguously situated, the rivalry of governors and generals, and the conflict of commercial regulations, could not fail to produce that effect. In addition to which, it cannot be doubted that other powers would take a pleasure in seeing a rupture between the United States and Spain. It is presumed that they are interested in it. Remove, however, this obstacle, and establish on just principles their western boundary, and all cause of inquietude and misunderstanding will be at an end. Their territories and police will be distinct, and their military stations at some distance from each other. Each power will regulate its own concerns as it thinks best; neither will be interested in disturbing those of the other. Their governments, on the contrary, will find themselves, bound by their interests, their faith, and their character, to keep their citizens within their own limits, which it will take ages to fill. Should Spain not place a strong force in Florida, it will not escape Your Excellency's attention, that it will be much exposed to the danger of being taken possession of by some other power who might wish to hold it, with very different views towards Spain than those which animate the Government of the United States. Without a strong force there, it might even become an asylum for adventurers and freebooters, to the great annoyance of both nations. In this light, however, we forbear to press it.

2182 It is proposed, by the enclosed project, to establish a district of neutral territory between the two powers, on which neither party shall encroach, and with a view to accommodation, that it should be, exclusively, for a given term, within the supposed limits of Louisiana. We are willing that the term should amount to twenty years, to give time for ulterior arrangements relative to that object, and the establishment of a permanent boundary between them in that quarter. If the boundaries of Louisiana are, as our Government believe them to be, and as, we presume, is sufficiently proved by the enclosed paper, this arrangement cannot be considered otherwise than in the light it is intended. This proposition, however, is not offered as an equivalent for the cession of Florida. It is proposed to make a pecuniary compensation for the cession to an amount which is deemed equal to its value. To fix that value, in case His Catholic Majesty is disposed to make the cession, can-

not, it is presumed, be difficult, since, without regarding other considerations, the sum given for the whole province of Louisiana furnishes a just and suitable standard. By comparing the extent of the territory of Louisiana with that of Florida, and taking into consideration the immense advantages derived to the United States from the entire command of the Mississippi and all the waters emptying into it, which followed the cession of Louisiana, we are promptly led to a fair result. On this point we wish to confer in person, when it may suit Your Excellency's convenience. The sum which may thus be agreed on, it is wished to appropriate in the manner mentioned in the proposed convention.

In seeking to terminate amicably all subsisting differences between the two powers, and to place their future relations on a basis of permanent friendship, it is thought that a formal stipulation in behalf of each, not only to observe the limits which may be agreed on, but to cause them to be observed by their respective citizens and subjects, may have a very salutary effect. If such a stipulation is regarded only as a proof of the spirit in which the convention is formed, it will always have weight with both goverments to ensure compliance with it. But it merits to be received in a stronger light, since it makes it the duty of each government to be attentive to, and to enjoin it on her citizens and subjects, respectively, strictly to observe the same. As the convention of the 11th of August, 1802, has not been carried into effect, it is thought best to suffer it to fall, and incorporate its contents into the present one: on that principle the project is formed. There seems to be a propriety in accommodating all subsisting differences, and providing for the respective interests of the two powers, to comprise the stipulations which are necessary for the purpose in the same instrument. To this mode, however, we have no preference, and only submit the idea to Your Excellency's consideration.

To facilitate the communication, and promote dispatch in an object of so much importance to our Government, we have the honor to annex a translation into French of this note, and the papers which accompany it, to Your Excellency. They are as correct as they could be made by those attached to the legation to whom alone we could confide their contents. We beg leave, however, to observe, that we consider ourselves responsible only for the originals, which are in English.

1803 We beg Your Excellency to accept the assurance of our distinguished consideration, &c.

CHARLES PINCKNEY.
JAMES MONROE.

(American State Papers (Foreign Relations) vol. II, p. 637.)

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. 60. Filed Aug. 20/04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

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2184 MISS. DOCUMENT No. 61.

Extract from Letter of Mr. Madison to Mr. Monroe, of Date May 23, 1805.

SIR: I have duly received the sevaral communications transmitted by Mr. Pinckney and yourself, under date of the 1st March last. I have also received from General Armstrong copies of his letters to you of the 12th and 18th of March. The passages in this last, in cipher, having not been copied into that used by this department with General Armstrong, remain locked up, but probably do not effect the general tenor of this letter.

From these communications, it appears that France has arranged herself on the side of Spain, in such a manner that Spain will neither be disposed nor be permitted to bend to our claims, either with respect to West Florida or the French spoilations. What past France may take in relation to the western boundary of Louisiana seems not to have been disclosed. From the silence on that point, in Talleyrand's note of November 8th, in answer to yours, in which the claim of the United States to the Rio Brave is expressly asserted, and from the confidential acknowledgment of that boundary by M. Laussat to Governor Claiborne and General Wilkinson, it might be expected that, on this important point France would side with us against Spain. Should this be the case, it is hoped, notwithstanding the unfavorable posture of the negotiation, that there will be room to give it some such result as was contemplated. But there is so little reliance to be placed on the temper and views of France, as lately developed, that a failure of your efforts ought to be anticipated. The alternative presented by this event is that of war, or a state of things guarding against war for the present, and leaving in vigor our claims to be hereafter effectuated. Against war, if to be safely and honorably avoided, the considerations are obvious and powerful. As it is a question which belongs to Congress, not to the Executive, that consideration alone forbids any step, on the part of the latter, which would commit the nation, and so a far take from the legislature the free exercise of its power. And it may be fairly presumed, considering the daily increase of our faculties for a successful assertion of our rights by force, that neither the nation nor its representatives would prefer an instant resort to arms to a state of things which would avoid it, without hazarding our rights or our reputation. The two essential articles in such a state of things are, 1st. A forbearance on the part of Spain, as well as of the United States, to augment their settlements, or to strengthen in any manner, their military establishments within the controverted limits; 2dly. Not to obstruct the free communication from our territories, through the Mobile and other rivers mouthing in the gulf of Mexico, or through the Mobile at least.

(American State Papers (Foreign Relations), vol. II, p. 633.)

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 61 Filed Aug. 20, '04 Wm. D. Bullard commissioner Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2185 MISS. DOCUMENT No. 62.

(12th Congress.) No. 296. (1st Session.)

Application to Annex West Florida to the Mississippi Territory.

Communication to the House of Representatives, November 20, 1811.

To the honorable Senate and House of Representatives of the United States:

We, the inhabitants of West Florida, your petitioners, represent to your honorable body, that, while we rejoice in the late event which has brought about our emancipation from the iron shackles of despotism, or rather released us from the more horrid calamities of anarchy, we still labor under the painful apprehension that your enlightened body will either continue us a separate Territory, or attach us to the Territory of New Orleans, instead of incorporating us with the Mississippi Territory, which we most ardently wish, for the following reasons:

The geographical and relative situation of West Florida and the Mississippi Territory, plead powerfully in favor of the measure. The climate, the soil, the people, the manners, and the politics of both countries, are the same, being only divided by an ideal boundary. We are all Americans by birth, and in principle; but if we are united with the Territory of Orleans, we will be subjected to all the inconveniences and miseries resulting from a difference of people, language, manners, customs, and politics. The safety, and indeed the political salvation of the Government of the United States, entirely depend on the unanimity of all its parts, which is best insured by combining persons and things homogeneous in their nature. If this be true, and if West Florida and the Territory of Orleans differ in every material respect, (of which there can be no doubt) it follows that a coalition of the two countries would be productive of discord, the evil genius of republican governments.

Your petitioners are aware of the policy suggested by some, of adding us, who are all Americans, to the people of the Territory of Orleans, who are chiefly French, in order to counteract the French influence. This may be sound policy, but to make us the instruments of effecting that object, at the same time that it might be advantageous to the United States in general, it would be destructive to our individual happiness; a sacrifice too great, we trust, to be required of us to make by a Government, wise in its Constitution, and just in its administration.

If, to counteract French influence, and subvert French politics, by populating the country with Americans, be the policy of the Government, your petitioners conceive that object will be shortly effected by the very great emigration of Americans from all parts of the United States. If those emigrants are subjected to all the inconveniences which we deprecate from a similar connexion, the case is not so hard with them as it would be with us, because they have voluntarily chosen that situation.

But waiving all objection on the score of dissimilarity betwixt us and the people of Orleans, nature herself seems to have thrown a barrier in the way to oppose the union. The city of New
2186 Orleans is, and in all probability will continue to be, the seat of government of that country; where, of course, all public business must be transacted, and which will, therefore, induce the necessity of the personal attendance of a great proportion of the people within the jurisdiction of that government, at the city of New Orleans, which will be extremely inconvenient to the inhabitants of West Florida, on account of the largeness and difficult navigation of Lake Pontchartrain, which completely insulates us from the city of New Orleans.

If, however, your honorable body should deem it unadvisable to attach us to the Territory of Orleans, in order to prevent a measure calculated to continue us under a separate territorial government we beg leave to state that, owing to the local situation of our country, it is not susceptible of a thick settlement; that, if it were settled with as many persons as the nature of the country will admit, yet we do not believe there would be wealth enough among us to defray the expenses of a government, without operating a very serious injury to us. But, admitting we are able to bear the expenses of a territorial government, if the Mississippi Territory, and the Territory of Orleans should become States, independent of us, we would forever remain a Territory; for, neither in point of numbers, nor in point of extent of country, would we ever arrive at the proud magnitude of claiming an admission into the Union, as a free sovereign, and independent State. Our only hope of participating with the rest of our brethren on the continent, in the rights and blessings of State sovereignty, is built upon the pleasing anticipation of becoming a part of the Mississippi Territory. By that means, independent of our own individual interests, the Mississippi Territory will derive the advantage of an extensive seacoast, of which she will otherwise be deprived.

For the for-going reasons, we humbly trust that your honorable body will grant our request, by adding all that tract of country, now in possession, by virtue of the President's proclamation of 1810, to the Mississippi Territory.

There is also another subject in which your petitioners are deeply interested, to which we beg leave to call your attention. Your petitioners have generally emigrated to this country since the cession of of Louisiana to the United States. When possession of New Orleans, and that of the country west of the Mississippi was taken, and the

province of West Florida left in possession, and under the exclusive jurisdiction of Spain, we took it for granted that the Government of the United States, either did not claim, or, if they did, meant to insist upon their claim to West Florida; we, therefore, have made settlements on lands, under the rules and forms of the Spanish government, expecting to hold our lands to ourselves and our heirs forever. We, therefore, pray your honorable body to confirm to us our settlement right, made between the time of the cession of Louisiana, until the time of taking possession of West Florida, wherever they have been made *bona fide*, and not with an intention to monopolise unreasonable quantities of lands, under such regulations as may best comport with the wisdom and justice of Congress.

We humbly trust that your enlightened body will grant this request, when you take into view all the circumstances which it involves. The consequences to us and our families are all important. If we are deprived of our possessions, we are deprived of our property; and, consequently, will be reduced to the extremes of
2187 want and wretchedness.

GEORGE PATTERSON,
And Four Hundred and Ten Others.

(NOTE.—See report No. 301.)

(American State Papers, vol. XXI, Miscellaneous vol. II, Executive, page 155.)

(Endorsed:) Louisiana vs. Mississippi. Miss. Doc. 62. Filed Aug. 20/04. Wm. D. Bullard, commissioner. Office Supreme Court U. S Filed Mar. 13 1905, James H. McKenney, clerk.

2188 MISS. DOCUMENT No. 63.

Extract from a Letter Addressed to the Secretary of State by the Minister of Spain, of Date December 30, 1815.

The diplomatic relations between the king, my master, and the United States being happily restored, and both governments being disposed mutually to strengthen the ties of the most pure and perfect friendship, it is my duty to inform the President of whatever may contribute to so desirable an object, and remove the obstacles which may prevent it. On the important points on which this note must turn, I have written to you under other circumstances less favorable than the present. I will now confine myself to a plain and simple explanation of them.

The first of these points is, that the direct and official relations between Spain and the United States having been broken off since the year 1808, the affairs of both nations, as well as their respective frontiers, should now be placed in the same state and situation in which they were at that period; and that, in conformity to this

principle, the part of West Florida which the United States took possession of during the glorious insurrection of Spain, and have retained until this day, should be restored to His Catholic Majesty. This just and conciliatory measure, at the same time that it will convince the king, my master, of the purity and sincerity of the sentiments of the American Government, and of their disposition to arrange and terminate amicably the several points of negotiation, will not in the least impair the right which it may believe it has to the whole or a part of the territory occupied, since it will remain subject, exactly as it was before its occupation, to a frank and friendly discussion between the two Governments.

(American State Papers (Foreign Relations) vol. 4, page 423.)

(Endorsed:) Louisiana vs. Mississippi Miss. Doc. 63 Filed Aug. 20/04. Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2189 MISS. DOCUMENT No. 64.

Extract from a Letter of the Secretary of State, James Monroe, to the Minister of Spain, of Date January 19, 1816.

You require that Spain shall be put into possession of West Florida, as an act of justice, before a discussion of the right of the parties to it is entered on.

It is known to your government that the United States claim by cession, at a fair equivalent, the province of Louisiana, as it was held by France prior to the treaty of 1763, extending from the River Perdido, on the eastern side of the Mississippi, to the Bravo or Grande, on the western. To the whole territory within those limits, the United States consider their right established by well-known facts and the fair interpretation of treaties. In a like spirit may the United States demand the surrender of all the territory above described, now in the occupancy of Spain, as a condition to the commencement of any negotiation for the adjustment of differences. When we consider how long your government has maintained what is deemed an unjust possession; more especially when we recollect that the injuries before received are still unredressed, and that others have been since rendered, there can be, it is presumed, but one opinion as to the great moderation of this Government in acquiescing in it. But why restore this province to Spain, if it is the intention of your government to make the title to it, in connexion with other differences, a subject of amicable negotiation and arrangement? May not such a negotiation be entered into as well while it is in the occupancy of the United States as if it were in that of Spain?

(American State Papers (Foreign Relations) vol. IV, page 425.)

(Endorsed:) Louisiana vs. Mississippi Miss. Doc. 64 Filed Aug. 20/04. Wm. D. Bullard commissioner. Office Supreme Court U.S. Filed Mar. 13, 1905, James H. McKenney, clerk.

Extract from a Letter of the Minister of Spain to the Secretary of State, of Date Feb. 22, 1816.

I will now pass to the second object of which your letter treats; that is to say, to the resolution which this Government has taken on the three points stated in my letters of the 30th December and 24 January.

The first was confined to a request that, in conformity to the principles I have stated, that is, that the affairs between the two nations should be placed on the same footing they were before the interruption of the diplomatic relations between them, His Majesty should be put in possession of that part of Florida which the troops of this Union had occupied. You were pleased to state, in reply, that this Government, believing that it had a well founded right not only on the part of West Florida, which their troops had occupied, but to a greater extent of territory, comprehended in the limits of the vice-royalty of Mexico, had judged that, with the same propriety that the king, my master, occupied those possessions, the United States might retain that part of West Florida they held, until it was decided by a friendly convention to whom it belonged.

Permit me to observe that there is no parity in the cases. The country to which you allude, extending to the Rio Bravo, or Del Norte, has been under the dominion of Spain, not only before and since France ceded Louisiana to His Majesty by the treaty of 1764, but from the time of the discovery and conquest of Mexico, without ever having passed by treaty to any other nation; whereas the Floridas ceased to be a French or Spanish possession, and passed into the hands of England, under the name of East and West Florida, in the year 1763. They remained under the power of His Britannic Majesty, as such, until the year 1783, when by conquest, the Spanish arms, and by solemn treaty, they passed under the dominion of His Catholic Majesty. From this you will infer that, be the interpretation which may be wished to be given to the treaty of retrocession of Louisiana, made between France and Spain in 1800, what it may, the two Floridas can never be directly or indirectly included in it; first, because these provinces being in the legitimate possession of England from the year 1763 to the year 1783, France could not cede them to Spain by the treaty of 1764—nor Spain retrocede them to France, not having received them from her, unless there should have been an article on this point, in which express and direct mention was made of the cession; and, secondly, because the two contracting parties (Spain and France) have declared in the most solemn manner, the first, that she did not cede to France any part of the Floridas—the second, that she had not acquired them by the treaty of St. Ildefonso, or of retrocession of 1800; nor had had the least intention to set up a claim to them. You know very well that, accord-

ing to all the acknowledged principles of justice, no one can be put out of the possession of what he holds until the right of the person who claims it shall be proved and recognized; and that, by a natural consequence of this principle, Spain having been in possession of West Florida when the United States laid claim to it, it is proper she should keep it until this Republic shows a better right, which ought to be done in a friendly negotiation between the two powers; and that it would be anticipating the negotiation to begin by taking possession of the territory, the right to which, so far as it respects the United States, ought to be the object of the negotiation itself. These are the ground- which support the first demand I made on you, in the name of His Majesty, in my letter of the 30 December;
2191 and I flatter myself that, reflecting on facts so well known, you cannot do less than consider them just.

(American State Papers (Foreign Relations), vol. 4, page 427.)

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 65 Filed Aug. 20 '04. Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

2192 MISS. DOCUMENT NO. 66.

Extract from a Letter to the Minister of Spain from the Secretary of State, of Date June 10, 1816.

You state that as that portion of Louisiana, which lies eastward of the Mississippi and the Iberville, had been ceded by France to Great Britain in 1763, and by Great Britain to Spain in 1783, it could not be comprised in the cession of Spain to France in 1800, nor of the latter to the United States in 1803; and you draw this conclusion from the supposed import of the term "retrocession" used in the two latter treaties; which, you say, applies to that portion only which Spain had received from France. My interpretation of these treaties, taking into view so much thereof as relates to this subject, is very different As to the term "retrocession," it is evident that it was not the intention of the parties that it should have any effect whatever on the extent of the territory ceded. The import of this term is too vague, and the term itself was used in a manner too casual, to admit such an inference, even had there been nothing else in the treaty, between Spain and France of 1800 to show that the construction you contend for is altogether inconsistent with the manifest intention of the parties. The import of this term would, in my opinion, be satisfied, if the whole province had passed in the first instance from France to Great Britain, and had been conveyed afterwards by Great Britain to Spain, and by Spain back again to France. In regard to France, this last conveyance would have been a "retrocession," as, by it, the territory would have been ceded back to her. It was very natural, therefore, that this term should be

sed, being applicable, in the most limited sense in which it can be aken, to at least nineteen-twentieths of the province, and, in a qualiied sense to the whole.

Had it been intended to exempt any portion of the province in he possession of Spain from the operation of the treaty of St. Ildeonso, it would have been easy to have done it, and in a manner to reclude all doubt of the intention of the parties. It might, for exmple, have been stated that Spain ceded back to France such parts f the province as France had ceded to Spain. A stipulation to this ffect would have been concise, simple, and very perspicuous; it ould have rendered useless and unnecessary the other provisions f the article in regard to the point of discussion, and for any purose whatever the first of those provisions; or they might have efined the extent of the cession by a natural boundary, which would ave been equally distinct and satisfactory. Had Spain ceded to rance all that portion of Louisiana which lies westward of the Missippi, the Iberville, and the Lakes Maurepas and Pontchartrain, o controversy could ever have arisen between France and Spain especting the eastern limits, as to what Spain had ceded in that uarter, and what she had retained, nor could there have been one etween the United States and Spain. By declining to define the oundaries of Louisiana, eastward, in some one of these obvious and erspicuous modes, it is just to conclude that it was intentional; that here was an object in it; and what that object was, is sufficiently pparent from a fair construction of the provisions of the article ready noticed.

By the treaty of St. Ildefonso, in 1800, the province of Louisiana ceded to France by Spain, "with the same extent it now has in he hands of Spain, and that it had when France possessed it, and ich as it should be after the treaties subsequently entered into beween Spain and other States." And by the treaty of 1803, between he United States and France, this article of the treaty between rance and Spain is inserted verbatim, by which the United States re placed precisely on the same ground on which France herself stood.

93 If we recur to the several provisions, we shall find that each has a distinct object, for which it would not have been necesry to provide, especially in that mode, if it had been the intention the parties that no portion of West Florida in question should ave been exempted from the cession. By stipulating first that the rovince was ceded "with the same extent that it now has in the nds of Spain," direct reference was made to that portion of West lorida lying between the Mississippi, the Iberville, the Lakes Maures and Pontchartrain, and the Perdido. This provision cannot be nstrued as alluding to any other part of the province, and its sole ffect was intended to be to include it in the cession to France. The cond provision is equally explicit—"that it had when France possed it." It is known that France had held the province to that tent before the treaties of 1763, by which she had ceded it to

Spain and Great Britain; and by this stipulation it was ceded back to her, in the same extent, so far as Spain could do it. The third provision has an object equally distinct, and is the more important because, by giving it its intended effect, the construction given to the others is fully confirmed "such as it should be after the treaties subsequently entered into between Spain and other States." By the treaty between the United States and Spain, in 1795 the boundaries as established between the United States and Great Britain in 1783, and the free navigation of the Mississippi, are confirmed, with the addition of the right of deposite at New Orleans. This provision applies to this treaty, and likewise to the treaty of 1783 between Great Britain and Spain, by which West Florida was ceded to the latter, whereby she was enabled to restore it, in the extent contended for, to France. In regard to its operation on the treaty of 1795 between the United States and Spain, it was a provision which the United States had a right to expect from the good faith of Spain.

This view of the subject, which was, in substance, taken by the ministers of the United States in 1805, in a negotiation with your government at Aranjuez, appears to me, as it then did, to be conclusive. You urge, however, against it, that the French government had stated that it was not its intention to cede to the United States that portion of Louisiana which France had ceded to Great Britain by the treaty of 1763. The same declaration was made to the ministers of the United States at Aranjuez, in 1805, for the same purpose that it is now repeated. A just regard to the rights of the United States, founded on the cession which France had made to them, with a thorough knowledge of all the circumstances attending the transaction, combined with a due respect to the government of France, dictated the answer. Your government was informed that the American envoys had proposed to the French government, in the negotiation which terminated in the cession of Louisiana by France to the United States, in 1803, that its boundaries should be defined by the treaty; to which the French government did not accede, preferring to insert in it an extract from the treaty of St. Ildefonso, by which the province had been ceded by Spain to France, with intention to place the United States, in regard to Spain, on the same ground precisely that France held herself under the treaty of St. Ildefonso, unprejudiced by any opinion of her own. Nothing had occurred in the negotiation with France to excite a doubt that the Perdido was the eastern boundary of Louisiana. It had been the boundary of the province when held by France, before the treaties of 1763, and it was made so again by the treaty of St. Ildefonso, which restored it to her. Such was the construction which the American ministers gave to that treaty, who were engaged in the negotiation with France; and such their representation of it to their Government, after the treaty with France was
2194 concluded. It merits particular attention that when your government was requested to cede to the United States such territory as they were desirous of obtaining prior to their acquisition

of Louisiana, it replied to their minister at Madrid, by a letter of the 3d of May, 1803, "that, by the retrocession made to France of Louisiana, that power regained the province with the limits it had, saving the rights acquired by other powers, and that the United States could address themselves to the French government to negotiate the acquisition of territories which might suit their interest." With the subject thus presented before the Government of the United States, the fair construction of the article of the treaty of St. Ildefonso, maintained by the American ministers in their official communication accompanying the treaty, sanctioned, as it evidently was, by the letter of your minister of state, the treaty of Paris of 1803 was ratified. It could not be expected that the United States would appeal under these circumstances, to France, for information as to the extent of the acquisition which they had made, or be governed by any opinion which her Government might express, in that stage, respecting it.

(American State Papers (Foreign Relations) vol. 4, 429, 430.)

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. 66. Filed Aug. 20, '04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2195 MISS. DOCUMENT No. 67.

Extract from Letter of Don Jose Pizarro to Mr. Erving, of Date August 17, 1817.

Besides this, posterior to the year 1805, the extraordinary event has occurred of His Majesty's having been unexpectedly deprived, in the year 1810, during his captivity, of the pacific possession in which he was of that part of West Florida which is between the River Iberville, the Lakes Maurepas, Pontchartrain and Borgne, on the one side, and the River Perdido on the other. When the indisputable property of His Majesty in the said territory was demonstrated, it was proved that Spain did not acquire it of France in 1763; that she received it of England in 1783 by a solemn treaty; that it was not and could not, be comprehended in the "retrocession of Louisiana" made to France in the year 1800; that the government of France "has declared so officially," and in the most solemn manner, as well to Spain as to the United States; that the fifth article of the treaty of 1778 between France and the United States opposes itself expressly to the acquisition by France (though she had attempted it) of said territory from Spain in 1800; that the royal cedula of His Majesty, issued at Barcelona on the 15th October, 1802, for the delivery of Louisiana, (which royal cedula was in the hands of the French government before the United States thought of acquiring the colony,) did not contemplate the delivery of territory east of the Mississippi other than that of the "island of New Orleans."

To these grounds, which have established, and do establish, in the clearest manner, the property of His Majesty in the said territory, may be added those of his pacific possession without interruption. The delivery of Louisiana took place without the least idea having occurred to the French commissioners, who received it of His Majesty for the purpose of delivering it to the United States of aspiring to the possession of the territory between the Iberville and the Perdido; Spain continued, in the years following the delivery, exercising over it all her authority, and the United States respected this possession. A certain customhouse regulation of the United States, in the year 1804, which seemed to contain some expressions susceptible of an equivocal meaning as to the rights of His Majesty in the territory of Mobile, was declaimed against on the part of the king, and the United States agreed to give a satisfactory and honorable explanation as to the said expressions. Whatever might be then, in that state of things, the pretension of right which might be formed against it, it did not appear to conform to the principles universally acknowledged to enforce that pretension * * * by means of acts, and, in truth, it was a painful duty for the faithful ministers of His Majesty, on his return from his captivity, to explain to him by what means and circumstances he had been deprived of the peaceful possession of the greater part of West Florida without war, or any stipulation which could authorize, having preceded it.

The king, attributing this extraordinary event to the circumstances, also extraordinary, of the epoch which had intervened, flattered himself that the United States would not defer placing things in the state which they were in at the time he left his dominions, and the invasion of the peninsula by Bonaparte. The glory, and even the interest of the United States, might equally incline them to this restitution, for a recent and costly experience has made the world see that there are no acquisitions of territory, however extensive, which can compensate the advantages to result from the reputation which those governments acquire who regulate
2196 their operations by principles conservatory of order and justice.

With these ideas, the king directed his minister at Washington that, before he entered into the discussions which had remained pending, he should solicit the restoration of affairs in the state in which they were at the time of his absenting himself. This preliminary step appeared correspondent to the decorum of His Majesty, and the United States could not fail to acknowledge it to be so; it being very certain that the delicate honor of the American Government would not consent, in a similar case, to enter into other negotiations, finding itself inquieted in the pacific possession of even one mile of its acknowledged territory, without first soliciting and obtaining the due restoration.

Notwithstanding this, and that the answer of the Secretary of State, of 19th January, 1816, is far from containing the satisfaction

restoration which Spain had reason to expect, His Majesty, to unequivocal proofs of his moderation, and of his friendly dis-ions toward the United States, without renouncing, as he does o way renounce, nor will renounce, unless in the case of some promise, the right of property and possession which he has in aid territory, has judged fit not to insist on his demand for the ent, in the hope that this point, though in its nature it ought to reliminary, may enter into the general arrangement with the s; but your penetration will acknowledge readily that on this tial point, as in others, the state of the question is not what it in the year 1805, new occurrences of such importance having n place since that period.

ou ought not, then, to be surprised that Don Luis de Onis, see-himself in the necessity of omitting all discussion, as well on oint already discussed in the year 1805, as on the more recent rrences, and invited to give his judgment on plans of adjustment nted by one or the other party, should believe that the instruc-which he previously had were insufficient, and even the inti-on (*aviso*) conformable to the contents of your note of 26th ust, which was remitted to him with the powers; and that in state he conceived himself without instructions to treat in the e which, from the commencement, he knew would be agreeable at government: for, though you are pleased to say that it was ne note of the Secretary of State of 25th January that Señor might observe that it was desired to avoid all further discus-I observe, by the letters which I have from that minister, that ne 6th of January he received the powers of His Majesty, and on the 10th of the same month he advises that the Secretary of had already in verbal conference expressed his opinion that ssion was useless, and that he had desired proposals and plans rangement to be made out, which were already making out on 2th.

t leaving aside these incidents, which will be settled by the mission of competent instructions to Señor Onis, I go on to ose to you, as I have offered, the principal conditions of an gement which, in my opinion, may terminate with reciprocal action the pending questions. Although these will be sufficient plain my mode of thinking, you will probably notice that in points they are diffuse, where I have thought it necessary to le to the right from whence proceeds the proposal made; and in other places they are succinct, where I have thought that ls may be omitted for the present which it will be necessary to enter into afterwards, if it be agreed to put in form the trans-action, to clothe it with the correspondent authority; in which case we shall draw it out by common consent in terms appro-e to our purpose.

(American State Papers (Foreign Relations) vol. 4, page- 446–447.)

(Endorsed :) Louisiana *vs.* Mississippi Miss. Doc. 67 Filed Aug. 20 '04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney clerk.

2198 MISS. DOCUMENT NO. 68.

Extract from Letter of Don Luis to the Secretary of State, of Date January 5, 1818.

SIR: In my note of the 29th of last month, I proved to you to a degree of moral demonstration which I think to be fully convincing, what are and ought to be the eastern boundaries of Louisiana; and I hope such incontrovertible, decisive reasons cannot fail to bring you fairly to acknowledge that Louisiana neither does nor can include any part of West Florida. As I have not yet received your answer to the said note, it was my intention to wait for it, and not proceed to the examination of the second point of the question of boundaries before we had agreed on and settled what relates to the first, in order to proceed methodically, and not to involve or embar-ass the plain and expeditious course of this investigation; but being desirous of not losing an instant in explaining every point relative to so important a matter, I anticipate the examination of the western boundaries of Louisiana, which is the second point of the question, thereby facilitating whatever may claim your attention as to both in their respective order, and enabling you to comprehend the truth at once.

(American State Papers, (Foreign Relations) vol. IV, p. 455.)

(Endorsed :) Louisiana *vs.* Mississippi Miss. Doc. 68 Filed Aug. 20 '04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

2199 (Miss. Document No. 69 is a map entitled " Mississippi Territory," taken from Carey's General Atlas—being a collection of maps of the world and quarters, their principal empires, kingdoms &c., published by M. Carey 121 Chestnut St. Philadelphia, 1816—See page 23 of leather covered atlas offered by defendant.)

2200 (Miss. Document No. 70 is a map—See atlas of maps offered by the State of Mississippi.)

(Miss. Document No. 71 is a railroad map of Mississippi published by Rand, McNally & Co., 1903. See atlas of maps offered by the State of Mississippi.)

201 MISS. DOCUMENT NO. 72.

THE STATE OF MISSISSIPPI,
Hancock County.

Board of Supervisors, January Term, 1898.

Be it remembered that a regular meeting of the board of supervisors was begun and holden in and for said county at the courthouse thereof in the city of Bay St. Louis, on the first Monday of January A. D. 1898 and on the 2" day of said meeting, the same being the 4" day of said month, an order was made by said board, which is in the following words and figures, to-wit:

Ordered by the board that the following ordinance be adopted to-wit:

An Ordinance to Prevent the Dredging of Oysters from the Public Oyster Reefs in Hancock County, Mississippi, and to Enforce the Same.

SEC. 1. It shall be unlawful for any person or persons to catch or take oysters from the natural oyster reefs known and declared by law to be public oyster reefs, in Hancock county, Mississippi, with a steam dredge or other dredge in less than fourteen feet of water.

SEC. 2. It shall be the duty of the sheriff or other lawful officer in Hancock county to arrest with or without warrant any person or persons violating this ordinance to take them before any magistrate or justice of the peace in said county for trial, and every such magistrate or justice of the peace shall have jurisdiction for a violation of this ordinance.

SEC. 3. Any person who shall violate this ordinance shall on conviction be fined not less than two hundred & fifty dollars for each offence or be imprisoned in the county jail not less than thirty days or both at the discretion of the court; and all persons so convicted shall stand committed until the said sentence is complied with and all costs be paid.

SEC. 4. When a prosecution under this ordinance shall be commenced and prosecuted to a conviction upon information or complaint of any private person, and the officer or justice of the peace trying the cause shall so certify on this docket, then and in that case, such prosecutor shall be entitled to one-half of the fine, to be paid him by the officer collecting the same, upon the order of the magistrate or justice of the peace trying the cause, and the other half of said fine to be paid into the treasury of Hancock county.

SEC. 5. That this ordinance take effect and be in force from and after this day.

(Signed) J. L. MEGEHEE, President.

Approved January 4, 1898.

I, Emile H. Hoffman, clerk of the chancery court and *ex-officio* clerk of the board of supervisors in and for said county, in the State aforesaid, do hereby certify that the above is a true copy of the order passed by the said board, at their meeting aforesaid, as fully as the same appears of record in Minute Book D, on pages 406 & 407, of said board.

Given under my hand and official seal, at my office in Bay St. Louis, Miss., this the 10″ day of August, A. D. 1904.

[SEAL.] E. H. HOFFMAN, Clerk.

(Endorsed:) Document Mississippi No. 72 Offered by State of Mississippi—Aug. 27 1904 Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

2202 MISS. DOCUMENT NO. 73.

THE STATE OF MISSISSIPPI, }
Hancock County. }

Board of Supervisors, September Term, 1898.

Be it remembered that a regular meeting of the board of supervisors was begun and holden in and for said county at the courthouse thereof in the city of Bay St. Louis, on the first Monday of September A. D. 1898 and on the 1″ day of said meeting, the same being the 5″ day of said month, an order was made by said board, which is in the following words and figures, to wit:

An Ordinance for the Protection and Preservation of the Public Oyster Reefs in Hancock County, Mississippi, and to Enforce the Same.

SEC. 1. It shall be unlawful for any person to take from the public oyster reefs within the waters of Hancock county any oysters between the first day of May and the first day of September of any year except for planting purposes and domestic use of the inhabitants of said State.

SEC. 2. It shall be unlawful to take from the natural oyster reefs in the waters of said county any oysters, the shells of which are less than two and one half inches long, except for planting purposes, and all oysters taken for any other purpose shall be culled so that there will not be more than five oysters in any one bunch, and they shall be culled without destruction to the oysters, free from all dead and empty shells and young and unmarketable oysters, and which culling shall be done & left on the reefs where the oysters are taken, provided however that such young and unmarketable oysters may be removed or disposed of for planting purposes only within the tide waters of Mississippi.

SEC. 3. That it shall be unlawful to buy, purchase or receive any ysters from any person or persons, except for the purposes set forth n section 2 of this ordinance that are not in conformity & culled as equired in said section.

SEC. 4. It shall be the duty of the sheriff or other lawful officers f & in Hancock county to arrest with or without warrant any per- on or persons violating this ordinance to take them before any agistrate or justice of the peace in said county for trial, and every ich magistrate or justice of the peace shall have jurisdiction for a iolation of this ordinance.

SEC. 5. Any person who shall violate any of the provisions of this rdinance shall on conviction be fined not more than fifty dollars r each offence or be imprisoned in the county jail not more than irty days, or both at the discretion of the court; and all persons convicted shall stand committed until the said sentence is com- lied with and all costs be paid.

SEC. 6. When a prosecution under this ordinance shall be com- enced and prosecuted to a conviction upon the information or mplaint of any private person, and the officer or judge trying the use shall so certify on his docket, then and in that case such prose- tor shall be entitled to one half of the fine to be paid to him by e officer collecting the same upon the order of the magistrate or dge trying the cause; the other half to be paid into the county easury.

SEC. 7. That this ordinance be published in the Gulf Coast ogress being the official journal of this board for three weeks & oof of publication to be filed.

SEC. 8. That this ordinance shall take effect and be in force from d after the first day of October, 1898.

Approved Sept'r 5, 1898.

Ordered that board adjourn until to-morrow morning 8 o'clock.

J. L. MEGEHEE, President.

03 I, Emile H. Hoffman, clerk of the chancery court and *ex-officio* clerk of the board of supervisors in and for said unty, in the State aforesaid, do hereby certify that the above is a ue copy of the order passed by the said board, at their meeting oresaid, as fully as the same appears of record in Minute Book D, pages 460 & 461, of said board.

Given under my hand and official seal, at my office in Bay St. uis, Miss., this the 10" day of August, A. D. 1904.

[Seal of Chancery Court, Hancock County, Miss.]

E. H. HOFFMAN, Clerk.

(Endorsed:) Document Mississippi, No. 73 Offered by State of ssissippi, Aug. 27, 1904 Frank H. Mortimer, commissioner. fice Supreme Court U. S. Filed Mar. 13 1905 James H. Mc- nney, clerk.

2204 Miss. Document No. 74.

The State of Mississippi, }
Hancock County. }

Board of Supervisors, June Term, 1900.

Be it remembered that a regular meeting of the board of supervisors was begun and holden in and for said county at the courthouse thereof in the city of Bay St. Louis, on the first Monday of June A. D. 1900 and on the 1st day of said meeting, the same being the 4th day of said month, an order was made by said board, which is in the following words and figures, to-wit:

Ordered that the following ordinance be adopted to-wit:

Be it ordained by the board of supervisors of Hancock county:

Section 1. That it shall hereafter be unlawful to take or catch any oysters from or upon any of the public oyster reefs in Hancock county by means of any steam vessel or any other appliance or device propelled managed operated or utilzed by means of steam.

Section 2. It shall also be unlawful to use any steam vessel, or vessel propelled by steam in fishing or taking any oysters from or upon any of the public reefs of said county.

Section 3. Any persons offending against any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction fined not less than twenty five nor more than five hundred dollars.

Section 4. This ordinance shall be published for three weeks in the Gulf Coast Progress and shall take effect and be in force from and after its third insertion in said newspaper.

(Signed) J. L. MEGEHEE, President.

I, Emile H. Hoffman, clerk of the chancery court and *ex-officio* clerk of the board of supervisors in and for said county, in the State aforesaid, do hereby certify that the above is a true copy of the order passed by the said board, at their meeting aforesaid, as fully as the same appears of record in Minute Book E, on page 124, of said board.

Given under my hand and official seal, at my office in Bay St. Louis, Miss., this the 10" day of August A. D. 1904.

[Seal of Chancery Court, Hancock County, Miss.]

E. H. HOFFMAN, Clerk.
—— ——, D. C.

(Endorsed:) Document Mississippi No. 74 Offered by State of Mississippi, Aug. 27, 1904 Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

2205 MISS. DOCUMENT No. 75.

(Letter Head.)

STATE OF (Vignette) MISSISSIPPI.

Auditor's Department. T. M. Henry, Auditor. E. J. Smith, Dep. Auditor.

JACKSON, MISS., ——, 190–.

I, T. M. Henry, auditor of public accounts for the State of Mississippi, do certify that the subjoined amounts were paid into the State treasury on account of the oyster fund, as shown by the records in this department, for the years named:

From Oct. 1st, 1902 to Sept. 30th, 1903, inclusive.....	$14,020.45
From Oct. 1st, 1903 to date.....	17,106.34
Total for the time.....	$31,126.79

[Seal Auditor's Office, State of Mississippi.]

T. M. HENRY,
Auditor Public Accounts.

Jackson, Mississippi, Aug. 24th, 1904.

(Endorsed:) Document Mississippi No. 75 Offered by State of Mississippi. Aug. 27, 1904 Frank H. Mortimer commissioner Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2206 MISS. DOCUMENT No. 76.

(Letter Head.)

Board of Oyster Commissioners of Mississippi.

Commissioners.	Inspectors.	Officers.
J. B. Chinn, Biloxi, Miss.	R. Mendes, Bay St. Louis, Miss.	J. B. Chinn, president.
Duncan Minor, Ocean Springs, Miss.	Geo. J. Cronovich, Pass Christian, Miss.	F. S. Hewes, Jr., secretary.
D. T. Cassibry, Gulfport, Miss.	John Caillavet, Biloxi, Miss.	Jas. H. Neville, attorney.
F. L. Patnotte, Pass Christian, Miss.		R. M. Mosely, chief inspector.
Frank J. Ladner, Bay St. Louis, Miss.		A. E. Lewis, ass't inspector.

GULFPORT, MISS., May 25, 1904.

Mr. I. Heidenheim, chairman of committee on testimony, Biloxi, Miss.

DEAR SIR: Agreeable to yours of recent date, I beg leave to give you a statement of the amount collected from licenses since the creation of the board of oyster commissioners, as follows:

Collected from 15 Sept. 1902 to Sep. 1903	$3572.50
" " 15 " 1903 " May 1, 1904	3990.00
Total collections from Licenses 15 Sep. 1902 to 1 May, 1904	$7562.50

Yours truly,
F. S. HEWES, Jr.,
Secretary Board of Oyster Commissioners of Miss.

(Endorsed:) Document Mississippi. No. 76 Offered by State of Mississippi. Aug. 27, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2207 MISS. DOCUMENT No. 77.

(Letter Head.)

Board of Oyster Commissioners of Mississippi.

Commissioners.	Inspectors.	Officers.
J. B. Chinn, Biloxi, Miss.	R. Mendes, Bay St. Louis, Miss.	J. B. Chinn, president.
Duncan Minor, Ocean Springs, Miss.	Geo. J. Cronivich, Pass Christian, Miss.	F. S. Hewes, Jr., secretary.
O. T. Cassibry, Gulfport, Miss.	John Caillavet, Biloxi, Miss.	Jas. H. Neville, attorney.
F. L. Patnotte, Pass Christian, Miss.		R. M. Mosely, chief inspector.
Frank J. Ladner, Bay St. Louis, Miss.		A. E. Lewis, ass't inspector.

GULFPORT, MISS., May 25, 1904.

Mr. I. Heidenheim, chairman of committee on testimony, Biloxi, Mississippi.

DEAR SIR: Agreeable to yours of recent date, I beg leave to give you a statement of the two cent per barrel tax since the creation of the board of oyster commissioners, as follows:

Collected from the 15 Sep., '02, to 1 Sep., '03, on 522,397 brls	$10447.95
Collected from the 15 Sep., '03, to 1 May, '04, on 517,711 brls	10354.22
Total collections 15 Sep., '02, to 1 May, '04, 1,040,108 brls	$20802.17

We will collect for this season about $2,000.00 additional, last report from chief inspector not yet received, same not due till next regular meeting, which is 1 Monday in June.

Yours truly,
F. S. HEWES, Jr.,
Secretary Board of Oyster Commissioners of Miss.

(Endorsed:) Document Mississippi No. 77 Offered by State of Mississippi, Aug. 27, 1904 Frank H. Mortimer commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

BILOXI, MISSISSIPPI, October 2nd, 1901.

Hon. A. H. Longino, governor of Mississippi.

SIR: In pursuance of your request, dated February 9th, 1901, asking the following gentlemen J. I. Ford, Scranton, E. J. Bowers and A. Keller, Bay St. Louis, W. A. White and H. T. Howard, Biloxi, to act as a commission to confer with a like commission appointed by the governor of Louisiana to consider the determination of the water boundary line between the two States, and arrange for the easy location and identification by a proper system of buoys.

Your committee met in Biloxi, February —, 1901, electing H. T. Howard chairman, and J. I. Ford secretary.

The chairman was requested to correspond with the Louisiana commission and arrange for a joint meeting of the committee.

March 4th, the chairman issued a call for the commission to meet in New Orleans, Louisiana, at the office of John Dymond, Jr., the secretary of the Louisiana commission, 339 Carondelet street on 26th March, 10 a. m.

On the day appointed there were present Messrs. Albert Estopinal Jr., John Dymond Jr., Clem Story, Sidney Lewis and H. C. Cage of Louisiana, and Messrs. H. T. Howard, J. I. Ford, W. A. White and E. J. Bowers of Mississippi. Absent only one, A. Keller of Bay St. Louis.

The meeting was called to order by Honorable Albery Estopinal Jr. chairman of the Louisiana commission, who stated the purpose of the meeting and suggested that Mr. H. T. Howard should be elected chairman of the joint meeting.

Mr. Howard was elected chairman and Mr. John Dymond Jr., secretary.

Mr. Dymond, at the request of the gentlemen present, stated and explained the views of the Louisiana commission. On motion of Mr. Bowers, seconded by Mr. Cage, the Louisiana commission was requested to express their ideas as to the boundary line on the map which had been the subject of discussion, the line to be delineated in red ink, which map should be presented to the Mississippi commission, and that the Mississippi commission should endorse their views thereon in black ink. Carried.

On April 8th, the Louisiana commission sent the map and their views, a copy of which is hereunto attached marked Exhibit "A," to the chairman of the Mississippi commission, who, after repeated calls for a meeting, finally succeeded in getting the Mississippi commission together at Bay St. Louis, at the office of the Honorable E. J. Bowers, on the 20th, of July 1901.

As the Mississippi commission could not agree to fix any lines upon the map sent them, the map was returned to the Louisiana commission, and a letter signed by the five Mississippi commission-

ers was sent to the Honorable Albert Estopinal, chairman of the Louisiana commission, a copy of which is hereunto attached marked Exhibit "B," notifying him that the Mississippi commission could not agree to the lines of the Louisiana commission, and asking that a friendly suit in the Supreme Court of the United States be instituted as the only course of settlement.

Having pursued the investigation for which we were ap-
2209 pointed, as fully as we could, we make this, our report, without suggesting anything more than has already been suggested by us to the Louisiana commission.

Respectfully submitted,

H. T. HOWARD, Chairman.
J. I. FORD, Secretary.
W. A. WHITE.
E. J. BOWERS.
AUG. KELLER.

STATE OF MISSISSIPPI, }
Hinds County. }

This is to certify that the above and foregoing is a true and correct copy of an official document now on file in the office of the governor of the State of Mississippi.

Witness my signature this 26th day of August 1904.

GEORGE R. EDWARDS, JR.,
Private Secretary to the Governor
of the State of Mississippi.

EXHIBIT "A."

To the honorable chairman and members of the Mississippi Boundary Commission:

The great State of Louisiana wishes to lay before the great State of Mississippi its desires as to the establishment of a boundary in the waters between the said States. The cause that necessitates this request on the part of one State of its neighboring State, is found in the fact of the existence of a difference in the laws of the two States over the waters thereof. It therefore becomes necessary that the two States should, if possible, come to an amicable agreement as to their water boundaries so that their respective court- would have jurisdiction in any matters that might subsequently arise.

The State of Louisiana feels that its boundaries, as well as those of the State of Mississippi, have already been fixed and determined by the United States Government, the parent and creator of both of the said States, and that all that is necessary in the premises would be a recognition of this already created boundary, yet a recognition in such terms and made in such manner as would free it from any possibility of confusion which end could be readily attained in the manner we now propose to present.

Recognizing the necessity of establishing the boundary between the two States, his excellency, W. W. Heard, governor of the State of Louisiana, appointed a commission on the boundary representing the State of Louisiana and presented to his excellency, A. H. Longino, governor of the State of Mississippi, the request of the great State of Louisiana that the great State of Mississippi should in turn appoint a commission on boundary which might confer with the Louisiana State Commission and thereby ascertain if it were possible to amicably settle any dispute that might exist in so
2210 far as the powers thereto were vested in such committee.

The conclusions of the Louisiana Boundary Commission will be presented to the legislature of the State of Louisiana, and we feel quite sure and in fact could confidently assert that if the Mississippi Boundary Commission were in accord with the views of the Louisiana Boundary Commission as to the boundaries that such action as these joint commissions might take would be carried into effect by the legislature of the great State of Louisiana.

Section 4, of the constitution of the great State of Mississi- as adopted November 1st, 1890, provides that the legislature shall have the power to settle disputed boundaries between the State of Mississippi and its coterminous States whenever such disputes arise. His excellency, A. H. Longino governor of the State of Mississippi, recognizing that any recommendations made by the Mississippi Boundary Commission would have great weight with the legislature thereof, appointed you gentlemen in compliance with the request of his excellency, W. W. Heard, governor of the State of Louisiana, and we now desire to lay before you the facts as appealing to our commission emphas-ing that the purpose of both commissions is to get at the facts and do justice to the parties and the rights, independent of a desire to aid by any action any interest that might be affected in the conclusions of the joint commission.

When we say that the boundary between the two States already exists, we mean by that that an interpretation of the acts of Congress creating respectively the States of Louisiana and Mississippi gives to each of them boundaries which do not conflict, provided the limits of the two States are separated the one from the other by the deep water channel beginning at the mouth of the Pearl river, extending north of Grassy island, southwest of Cat island, northwest of Chandeleur island to the sea. Any other construction of the acts of Congress creating the respective States would apparently make the boundaries of the two overlap, and if there be as we have stated, a definite line that harmonizes the two acts in question, we say that such boundary must have been in the contemplation of Congress rather than Congress would have been presumed to have laid down conflicting boundaries.

The State of Louisiana founds its boundary limits on the dimensions of the Louisiana Territory transferred by Napoleon, Emperor of France, to the United States Government. The United States Statutes at Large, volume 1, charter 1, page 245, approved October

31st, 1903, provides for the acceptance and taking possession of the Louisiana Territory thus ceded to the United States by the French people. By the same volume, page 283, chapter 38, approved March 26th, 1804, we find Congress dividing the Louisiana purchase into two Territories and providing for the government thereof. The whole subject of the dimensions of the Louisiana purchase is set forth in the recent work compiled by Binger Herman, Commissioner of the General Land Office and issued by the Government Printing Office at Washington, D. C., in the year 1900. According to the terms of the said purchase, the State of Louisiana claims that the Chandeleur islands belonged to it, in as much as they were part of the territory ceded by France to the State of Louisiana. The question whether they did or did not, however, is not necessarily a subject for settlement between the Louisiana and Mississippi Commission, as the limits of the State of Mississippi, under no circumstances could be construed to extend as far south as the Chandeleur islands, and for that reason we pass this phase of the subject by, except to state that according to the Louisiana purchase the eastern boundary of the territory extended from the Rigolets to the gulf of
2211 Mexico following the deep water channel to the sea to the eastward and inclusive of the Chandeleur islands.

When the State of Louisiana was admitted into the Union of the United States we find its boundaries defined in chapter 50 of the United States Statutes at Large, volume 2, page 701, approved April 6th, 1812 to be as follows:—

"Whereas the representatives of the people of all of that part of the territory or country ceded under the name of Louisiana by the treaty made at Paris on the 30th, day of April 1803 between the United States and France, contained within the following limits, that is to say; beginning at the mouth of the River Sabine; thence by a line to be drawn along the middle of said river, including all the islands to the 32nd, degree of latitude; thence due north to the northernmost part of the 33d ? degree of north latitude; thence along the said parallel of latitude to the Mississippi river; thence down the said river to the River Iberville and from thence along the middle of the said river and Lakes Maurepas and Pontchartrain to the gulf of Mexico; thence bounded by the said Gulf to the place of beginning, including all islands within three leagues of the coast.

There is no way to go from Lakes Maurepas and Pontchartrain to the gulf of Mexico other than by the deep water channel. To any one contemplating the trip no other course but the deep water channel would naturally suggest itself.

We find that in 1812 the State of Louisiana had additional territory added to it. This territory is what was commonly known as the Florida parishes, and was at one time a sort of free government. The legislature on the subject of this additional territory is found in the acts of Congress, United States Statutes at Large, volume 2,

page 708, chapter 57, approved April 14th, 1802 wherein we find the following language :—

"Beginning at the junction of the Iberville, with the River Mississippi; thence along the middle of the Iberville and of the River Amite and of the Lake- Paurepas and Pontchartrain to the eastern mouth of Pearl river; thence up the eastern branch of the Pearl river to the 31st, degree of north latitude; thence along the said degree of latitude to the River Mississippi; thence down the said river to the place of beginning, shall become and form a part of the State of Louisiana."

There was nothing taken away from the State of Louisiana by this act of Congress. On the contrary, the object and the result was the addition of the Florida parishes to the State of Louisiana. The water rights or boundaries were not affected or changed, except that the eastern junction of the water boundary line and the main land was moved from the channel of the Rigolets to the channel of the eastern mouth of the Pearl river. Immediately leaving the point where the boundary joined the shore it follows the main channel to the sea and in so doing joined in the main channel the former water boundary line separating the State of Mississippi, which line it followed till it separated from it at a point southwest of Cat island, where the boundary lines struck the sea.

In confirmation of his contention on the part of the State of Louisiana we need but to turn to the act of Congress creating the great State of Mississippi. It was known to Congress that there was a string of islands along south of, and running parallel to the main land of the State of Mississippi. The State of Mississippi was admitted into the Union by the act of Congress found in the United States Statutes at Large, volume 3, chapter 23, page 348, *provided* March 1st, 1817, wherein the inhabitants of the western part of the
2212 then Mississippi Territory were authorized to form themselves a State constitution, and to be admitted into the Union. The boundaries of the then to be created State were as follows:—

"That the said State shall consist of all the territory included within the following boundaries, to-wit:

"Beginning on the River Mississippi at the point where the southern boundary line with the State of Tennessee strikes the same; thence east along the said boundary line of the Tennessee river; thence up the same to the mouth of Bear creek; thence by direct line to the northwest corner of the county of Washington; thence due south to the gulf of Mexico; thence westwardly, including all the islands within six leagues of the shore, to the most southern junction of Pearl river with Lake Borgne; thence up said river to 31st, degree of north latitude; thence west along said degree of latitude to the Mississippi river, thence up the same to the beginning."

The State of Louisiana in adopting its present constitution that of the year 1898, did not fix boundaries *and* did the State of Mississippi in its constitution adopted November 1st, 1890, for we find in

the 3rd, section of the second article of the Mississippi constitution the following:

"The limits and boundaries of the State of Mississippi are as follows, towit: Beginning on the Mississippi river (meaning thereby the center of said river or thread of the stream where the southern boundary line of the State of Tennessee strikes the same, as run by B. A. Ludlow, D. W. Connelly and W. Petrie, commissioners appointed for the purpose on the part of the State of Tennessee; thence east along the said boundary line of the State of Tennessee to a point on the west bank of the Tennessee river, six four-pole chains south of and above the mouth of Yel*b*ow creek; thence up the said river to the mouth of Bear creek; thence by a direct line to what was formerly the northwest corner of the county of Washington, Alabama; thence on a direct line to a point ten miles east of the Pascagoula river on the gulf of Mexico; thence westwardly, including all the islands within six leagues of the shore, to the most eastern junction of Pearl river with Lake *Lake* Borgne; thence up said river to the 31st, degree of north latitude; thence west along said degree of latitude to the middle or thread of the stream of the Mississippi river, or thread of the stream to the place of beginning, including all islands lying east of the thread of the stream of said river, and also including all lands which were at any time heretofore a part of this State."

Taking the boundaries as determined by the constitution of the State of Mississippi we find that they conform with the contention of the State of Louisiana in that they begin at a point ten miles to the eastward of the Pascagoula river at a point eighteen miles out at sea. Thence the boundary line runs westwardly. It includes the several islands we have heretofore mentioned, viz: Petit Bois, Horn island, Ship island and Cat islands, the island contemplated by Congress. Thence it meets the Louisiana boundary in the deep water channel to the southwest of Cat island and follows this channel up through to the north of Grassy island to the mouth of Pearl river.

The State of Louisiana lays down the proposition that in all divisions of territory between States they are governed, where the same are separated by bodies of water, unless otherwise specified by the rule that the deed water channel makes the boundary lines. This is modern *porceedure*, and is illustrated by the action of the Canadian and American commissioners in settling the dispute
2213 as to the small island in front of the city of Detroit. This island having been found to be on the American side of the deep water channel was held to belong to the State of Michigan. This theory is confirmed by the very article of the Mississippi constitution, which we have just cited, where the Mississippi river and other streams separate the great State of Mississippi from its neighbors. We quote from the Mississippi constitution "and thence up the middle of the Mississippi river, or the thread of the stream to

he place of beginning, including all islands lying east of the thread of the stream of said river."

We therefore respectfully submit and urge that the great State of Mississippi, through the medium of your honorable gentlemen appointed for the purpose by his excellency A. H. Longino, governor of the great State of Mississippi, should declare to your legislature unanimously, that from the researches you have made, from the law you have examined, and from the arguments you have heard it is our opinion that the boundary line between the great States of Mississippi and Louisiana, separating them and their waters, begins at the mouth of the Pearl river and thence follows the deep water channel to the east of Grassy island, to the southwest of Cat island by the Cat Island channel to the deep water of the gulf of Mexico where the said lines diverge, that of Louisiana extending to the eastward of the Chandeleur islands, and that of Mississippi extending eastwardly, including Ship island Horn island and Petit Bois island to a point ten miles to the eastward of the Pascagoula river, where it extends north at right angles; and we do repeatedly urge that you may request of your legislature that they enact such laws as may carry into effect your finds.

Respectfully submitted,

JOHN DYMOND, JR.,
Secretary Louisiana Boundary Commission.
Composed, ALBERT ESTOPINAL, Chairman.
CLEMENT STORY.
H. C. CAGE,
S. F. LEWIS,
JOHN DYMOND, JR., Secretary.

New Orleans, Louisiana, April 6th, 1901.

214 EXHIBIT "B."

on. Albert Estopinal, Jr., chairman Louis-ana Boundary Commission:

The commission appointed by the State of Mississippi to confer ith a like commission appointed by the State of Louis-ana having et and considered maturely the claims advanced by the Louis-ana mmission, and having examined the line as delineated by that dy and submitted with said claims, are unable to concede the line claimed by the State of Louis-ana and as marked and set forth on e map of said claim.

The difference between the line marked between your honorable dy and that which we conclude is the true boundary, is so great at we have no hope of being able to reconcile them and therefore em it useless to submit any counterline or proposition.

The Mississippi commission considers as islands considerable terri-

tory which the Louis-ana commission claims as main land, and the difference over this question of fact appears to us to — past reconciling.

We beg to disclaim any idea of being discourteous in failing to submit a counter line for your consideration.

It is apparent that the only hope of settlement is a friendly suit in the Supreme Court of the United States and we respectfully suggest that court.

Respectfully submitted,

H. T. HOWARD, Chairman.
J. I. FORD, Secretary.
E. J. BOWERS.
W. A. WHITE.
AUG. KELLER.

Bay St. Louis, Mississippi, July 20th, 1901.

STATE OF MISSISSIPPI, }
County of Hinds. }

This is to certify that the above and foregoing is a true and correct copy of an official document now on file in the office of the governor of the State of Mississippi.

Witness my signature this 26th day of August, 1904.

GEO. R. EDWARDS, Jr.,
Private Secretary to the Governor of Mississippi.

(Endorsed:) Document Mississippi No. 78. Offered by State of Mississippi Aug. 27, 1904. Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

2215 MISS. DOCUMENT NO. 79.

To his excellency A. H. Longino, governor of the State of Mississippi:

The undersigned members of the commission on the part of the State of Mississippi, appointed by Your Excellency to confer with a similar commission appointed by the governor of Louisiana "to consider the determination of the water boundary line between the two States &c." beg leave to report that after a joint conference the commissioners for Louisiana submitted to the commissioners for Mississippi a statement of what they claimed to be the boundary line, said line extending from the junction of the eastern mouth of Pearl river with Lake Borgne, through said lake, Grand pass, the Mississippi sound, South pass and Cat Island channel into the gulf of Mexico.

The commissioners for Mississippi declined to accept the said line as the boundary, and the undersigned members beg leave to submit to Your Excellency our reasons therefor as follows:

1st. The boundaries of the States of Mississippi and Louisiana are ed by the several acts of Congress relative thereto; towit: the s of April 8th, 1812, April 14th 1812 and March 1st. 1817.

2nd. The boundaries of the State of Louisiana as fixed by the act Congress of April 8th, 1812, constituting the State of Louisiana as follows: "Beginning at the mouth of the River Sabine; nce, by a line to be drawn along the middle of said river includ- all islands, to the thirty second degree of latitude; thence due th to the northernmost part of the thirty-third degree of north itude; thence along the said degree of latitude to the River Mis- ippi; thence down the said river to the River Iberville; and nce, along the middle of said river, and Lakes Maurepas and ntchartrain to the gulf of Mexico; thence, bounded by the said lf to the place of beginning, including all islands within three gues of the coast; and were enlarged by the act of April 14th, 2, by adding the territory included in the following boundaries: eginning with the junction of the Iberville with the Mississippi er; thence along the middle of the Iberville with the Missis- pi river; thence along the middle of the Iberville, the River ite and of the Lakes Maurepas and Pontchartrain to the eastern uth of the Pearl river; thence up the eastern branch of the Pearl er to the thirty first degree of north latitude, thence along said ree of latitude to the River Mississippi thence along the said er to the place of beginning."

n as much as it would be impossible to pass out through Mau- as and Pontchartrain to the gulf of Mexico proper without pass- through Lake Borgne, and the Mississippi sound of the Chan- eur sound, it is obvious that these three bodies of water, which are s of the gulf of Mexico, are referred to as the "gulf of Mexico," and t the term gulf of Mexico is used indiscriminately with reference Lake Borgne, Mississippi sound, Chandeleur sound and the Gulf per, and that Lake Borgne is referred to as the gulf of Mexico in phrase "thence along the middle of said river and Lakes Mau- as and Pontchartrain to the gulf of Mexico" and that Lake gne, the Mississippi sound and the Chandeleur sound are re- ed to as the gulf of Mexico in the phrase "thence bounded said Gulf to the place of beginning:

rd. That when the eastern boundary line reaches the northern re of Lake Borgne, the true boundary line, according to these of Congress, follows the shore in all its meanderings south south west to the mouth of the Sabine river, and therefore all islands within three leagues of this shore are Louisiana 6 territory but that no water, island or marshland not within three leagues of this main shore of Louisiana, as thus defined, ngs to the State of Louisiana.

th. The boundaries of Mississippi, as fixed by the act of Congress March 1st. 1817, are as follows:—"Beginning at the River Missis- pi, at the point where the southern boundary line of the State of nessee strikes the same; thence east along the said boundary

line to the Tennessee river; thence up the same to the mouth of Bear creek; thence in a direct line to the north-west corner of the county of Washington; thence due south to the gulf of Mexico; thence, westwardly including all islands within six leagues of the shore, to the eastern junction of Pearl river with Lake Borgne; thence up the said river to the thirty-first degree of north latitude; thence along the said degree of latitude to the Mississippi river; thence up the same to the place of beginning."

It will be seen from the above that the southern boundary of Mississippi runs from the point where the Alabama and Mississippi line strikes the gulf of Mexico to the eastern junction of Pearl river with Lake Borgne and that all islands within six leagues of the shore, and not within three leagues of the State of Louisiana as above described, are included in Mississippi territory.

5th. Our information is that the territory in dispute between the two States, all of which is within six leagues of the Mississippi shore, consists wholly of water and small islands, most of which in high tide are covered by water, and that little if any, of said territory is within three leagues of the Louisiana shore, but it is impossible to tell from the maps, just how much, if any, of said territory is within said limit, of three leagues, by reason of the fact that the main shore line of Louisiana is not distinctly defined on any maps to which we have had access, and therefore it is impossible to fix the true boundary line without a survey. Yet it is manifest that the greater portion of the territory in dispute is within the jurisdiction of the State of Mississippi, for the reason that it is within six leagues of the Mississippi shore, and not within three leagues of the Louisiana shore.

6th. By reason of the fact that the exact boundary line between the two States can not be ascertained without a survey, we agreed to submit no line to the commissioners appointed by the governor of Louisiana, but the commissioners of Mississippi suggested to them a friendly suit in the Supreme Court of the United States as the only method by which to fix the true boundary.

Respectfully submitted,

W. A. WHITE.
J. I. FORD.

October 1st, 1901.

STATE OF MISSISSIPPI, }
County of Hinds. }

This is to certify that the above and foregoing is a true and correct copy of an official document now on file in the office of the governor of the State of Mississippi.

Dated this 26th, day of August, 1904.

GEO. R. EDWARDS, JR.,
Private Secretary to the Governor of Mississippi.

(Endorsed:) Document Mississippi No. 79 offered by State of Mississippi August 27, 1904 Frank H. Mortimer, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905 James H. McKenney, clerk.

217 MISS. DOCUMENT NO. 80.

"Mississippi Boundary Commission.

On February 9th. 1901 I appointed the following named gentlemen as commissioners to confer with a like commission appointed the governor of Louisiana to consider the water boundary line tween the two States, and arrange for the easy location and identification of same by a proper system of buoys, towit:

Hon. J. I. Ford, Scranton, Miss.
Hon. E. J. Bowers, Bay St. Louis, Miss.
A. Keller, Bay St. Louis, Miss.
Hon. W. T. Howard, Biloxi, Miss.

This commission met at Biloxi and elected H. T. Howard, chairman, and J. T. Ford, secretary. Their report which is transmitted you, will acquaint you with the whole matter, and from which u will find that they suggest a friendly suit in the Supreme Court the United States as the best method to fix the true boundary bee en the two States.

I submit the matter for such legislation as in your judgment is t."

ATE OF MISSISSIPPI, }
County of Hinds. }

This is to certify that the above and foregoing is a true and cor- copy of that part of the governor's message to the legislature of State of Mississippi of 1902 relative to the Mississippi Boundary mmission, which message is now on file as an official document he office of the governor of the State of Mississippi.

Witness my signature this 26th day of August, 1904.

GEO. R. EDWARDS, JR.,
Private Secretary to the Governor of Mississippi.

Endorsed:) Document Mississippi No. 80 offered by State of sissippi Aug. 27, 1904. Frank H. Mortimer, commissioner. ce Supreme Court U. S. Filed Mar. 13 1905 James H. McKen- clerk.

2218 MISS. DOCUMENT No. 81.

Biennial Message of Gov. A. H. Longino to the Legislature of Mississippi.

WEDNESDAY, January 6th, 1904.

* * * * * * *

State Boundary Controversy.

I had the honor to bring to the attention of the legislature at its session in 1902 the question of the disputed boundary between Mississippi and Louisiana, wherein each State is claiming ownership of and jurisdiction over certain islands and waters in the gulf of Mexico. The legislature having taken no action looking to a settlement thereof, I took the matter up in person and tried in vain to effect an adjustment of said controversy with my ideas of the rights and merits of Mississippi's claim and interests in the premises, and I have now to say that since then the State of Louisiana, acting through its governor and attorney general, filed a bill against this State in the Supreme Court of the United States, styled: "The State of Louisiana, complainant, *vs.* The State of Mississippi, defendant," wherein the complainant seeks to have the disputed territory adjudged to be the property of that State and under the exclusive jurisdiction of its laws. The effect of such decree in favor of the complainant would, under the operations of the laws of the State of Louisiana, prohibit the citizens of Mississippi from taking fish and oysters from the waters in dispute. The said oyster reefs are to a very large extent the dependence for supply of fish and oysters to the people of Mississippi living on the southern border of the State, who are engaged in that particular line of industry. The property in controversy is of great value, extending perhaps into millions of dollars.

2219 Owing to the enormous consequences to the State, which are involved in the controversy, and because also of the multitudinous and complex duties already devolving upon the attorney general, rendering it impossible for that officer to give the necessary time, work and study which the importance of this case demands, it became imperative that assistant counsel should be employed therein. I secured therefore, Hon. Monroe McClurg, of Greenwood, Mississippi, and the firm of Dodds & Griffith, of Biloxi, Miss., to assist the attorney general in representing the State's interest in said case, and I recommend to your honorable body suitable recognition of their valuable services and that you appropriate for the payment of their fees respectively such liberal sums as your judgment approves.

The attorney general's report will acquaint you with the progress made in said cause to date.

* * * * * * *

(Endorsed:) Mississippi Document No. 81. Filed Sept. 22, 1904. Wm. D. Bullard commissioner for the State of Mississippi. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, Clerk.

2229 U. S. Commission of Fish and Fisheries.

George M. Bowers, Commissioner.

Report on the Oyster Beds of Louisiana.

By H. F. Moore.

Extracted from U. S. Fish Commission Report for 1898, pages 45 to 100, plate 3.

Washington:
Government Printing Office.
1899.

* * * * * * *

Introduction.

WASHINGTON, D. C., June 29, 1898.

On May 6, 1897, the United States Fish Commission received a communication from Hon. Adolph Meyer, M. C., inclosing the following concurrent resolution of the legislature of Louisiana:

Be it resolved by the house of representatives of the State of Louisiana, and the senate concurring, That the United States Fish Commission be requested to investigate in the oyster-spawning season and report to this General Assembly before its next session the exact season of the oyster spawning in this State and all other facts respecting the same, and whether or not the present existing laws are not injurious to the oyster industry of this State.

S. P. HENRY,
Speaker of the House of Representatives.
R. H. SNYDER,
Lieutenant Governor and President of the Senate.
MURPHY J. FOSTER,
Governor of the State of Louisiana.

JOHN T. MICHEL,
Secretary of State.

21 Pursuant to this request, and in view of the importance of the Louisiana oyster industry, it was decided to undertake an investigation of the subject, and Dr. H. F. Moore, of this commission, was directed to visit Louisiana in August and September, 1897, for the purpose of making some preliminary inquiries, and the steamer

Fish Hawk, Lieut. Franklin Swift, U. S. N., commanding, was dispatched to the State in February, 1898, to conduct a more extensive examination of certain oyster grounds. The accompanying report, based on the investigations thus made, has been prepared by Dr. Moore, who accompanied the vessel and was charged with the consideration of the biological aspects of the work. It was the intention of Lieutenant Swift to write the report on the reconnaissance made by the Fish Hawk, but before he could do so he was detached from the commission and assigned to naval duty.

GEORGE M. BOWERS,
U. S. Commissioner of Fish and Fisheries.

Report on the Oyster Beds of Louisiana.

By H. F. Moore,
Assistant, United States Fish Commission.

Within recent years several investigations of Gulf coast oyster grounds have been made by the United States Fish Commission, but none of these related to the waters of Louisiana. Upon the receipt of the request from the General Assembly for information concerning the oyster-beds of that State, the writer was ordered to Louisiana for the purpose of determining certain facts relating to the question of close seasons, and to make an examination preliminary to a more careful and extended investigation by the steamer Fish Hawk later in the season. A period of about fifteen days in August and September was spent in the oyster regions of St. Bernard, Plaquemines, and Terrebonne parishes, and as a result it was decided to confine the contemplated survey to the St. Bernard region as offering better facilities for the character of work which it was desired to undertake. The Fish Hawk was not available until February 1, from which time until February 24, when she
2222 left in order to begin her regular work of shad-hatching, the field work was prosecuted vigorously and continuously, except when interrupted by stormy weather.

Owing to the shallowness of the water the Fish Hawk could not be used for active duty in the survey, and she was therefore anchored as close as possible to the oyster-beds and used as a base of operation for the launches, at first off the northern entrance to Grand pass, and afterwards, during the greater part of the work, off the mouth of Three-mile bayou. The work was often performed at a distance from the ship, and much time was unavoidably lost in running to and from the scene of the day's operations. Should a complete oyster survey of the region be attempted in the future, it could be much facilitated by employing several light-draft vessels, which could be worked into the marshes and used as quarters for the field parties on the launches.

It was originally intended to make a thorough and complete survey of the oyster-beds of St. Bernard parish similar to that which

as made by the Fish Hawk in Apalachicola bay, but this plan was abandoned when it was found that the time at the disposal of the party was to be so limited. Many of the stations established by the Coast Survey have been obliterated or washed away by the storms, and it would have required more time than was available for the entire work to erect and cut in the signals necessary to a proper survey. Contrary to expectations, it was found that the topography in general had not undergone many important changes since the survey upon which the Coast Survey charts were based, and the several points could be identified and located with sufficient accuracy to suit the purposes of a reconnaissance.

The plan finally adopted was to run lines of timed soundings from point to point, so as to cover the intervening waters by series of intersecting zigzags. As the lines were rarely over 2 miles in length, the position of any given sounding could be approximately determined by its time, the time of beginning and ending the line being noted, and the speed of the launch being nearly uniform on each series of soundings. Most of the important beds were also located by compass bearings, from charted points. The charted areas of the beds, as well as their positions, are but approximate; but it is believed that the aggregate is measurably near the truth, although individual beds might prove somewhat greater or less in extent than appeared from the hurried examination which it was possible to make. The soundings were made by means of the sounding pole devised and used by Lieutenant Swift in the survey of Apalachicola bay, and described in his report upon the oyster-beds of that vicinity. Owing to lack of time no effort was made to determine with exactness the number of oysters to the square yard, as is done in a regular survey, and the terms "dense," "scattering," and "very scattering" are relative in their application to this field only. Dense and scattering beds are such as can be worked with profit by means of tongs. "Very scattering" beds are shown on the chart with some ambiguity,—in a few places especially in the lagoons, denoting growth, which it hardly pays to work, sparsely distributed over the entire bottom; in other places, as in the northern part of West Karako bay, representing small beds more or less dense, distributed at irregular intervals, and in the text described as "scattered in patches," or in somewhat similar terms. Such beds can be worked with profit.

The investigation in St. Bernard parish was under the direction of Lieut. Franklin Swift, U. S. N., commanding the Fish Hawk. The hydrographic field work and the location of the oyster beds were carried on by Mate J. A. Smith, U. S. N., and by Mr. Eugene Smith, of the steamer Fish Hawk.

After the Fish Hawk concluded the reconnaissance in St. Bernard parish, the writer was instructed to make an examination of the oyster-grounds of Louisiana west of that region. In pursuance of the latter purpose, he left the ship at Bay St. Louis upon its departure for the north on February 25, and proceeded to several places in

Plaquemines parish, where boats were hired, and all the principal natural beds and planting-grounds were examined. At Grand isle, on Barrataria bay, a lugger was secured and an examination made of all the oyster-grounds in the vicinity, after which a cruise was made to the westward, under the guidance of men familiar
2224 with the region, as far as Morgan City, all of the oyster regions, with the exception of the upper waters of Terrebonne bay, being visited en route. No attempt was made to chart or locate even approximately the individual beds examined on this brief tour, but their general character, present condition and future prospects are reported upon in the following pages.

The writer acknowledges his indebtedness to Col. F. C. Zacharie, Hon. E. McCullom, Hon. Adolph Meyer, and Hon. S. P. Henry for valuable assistance and information and to Mr. F. F. Hansell for the use of his yacht in visiting the St. Bernard beds in August 1897.

The Natural Oyster-beds of St. Bernard Parish.

General description of the region.—The area embraced within the limits of the reconnaissance made by the Fish Hawk, and shown upon the chart accompanying this report, does not include all of the oyster-grounds within the parish of St. Barnard. Field work was pushed into the interior waters lying southwest of Indian Mound bay and Southwest pass, and known to the oystermen as Treasure bayou, Mussel bayou, Flat bay, etc., but the lack of a chart of this region approaching even approximate correctness has made it seem advisable to attempt to plot the oyster-beds found there, though they are described in general terms in the text. South of Drum bay, in which lie the southernmost of the charted beds, are extensive areas of good oysters stretching to the parish line at Mozambique point, but these were not examined owing to lack of time. We were informed that notwithstanding their extent and the good quality of the oysters they were not extensively worked, on account of their inaccessibility as compared with other beds of St. Bernard parish, and for this reason it was considered that, for the purposes of the investigation, it was not advisable to devote to their examination time which could be more profitably spent in the study of those beds which were in active use and which therefore presented problems of more immediate importance. In this connection incidental mention may be made of the gregariousness and the general lack of enterprise of the oystermen of this district, who, in the latter part of the season, often spent upward of two weeks in loading their
2225 boats in Three-mile bay rather than leave their fellows and familiar ground to sail 20 or 30 miles to the southward, where they claim they could secure their fares in three or four days.

The district covered by the field work extends from Mississippi sound on the north as far as Morgan harbor on the south, and from Chandeleur sound to the zone where the water becomes of such slight

salinity as to be fatal to oyster life. Within the limits of the reconnaissance this zone accords approximately with the meridian passing through Lake Borgne light-house in Mississippi sound the oysters extending a mile or two west of that limit, while in the marshes they are all east of the line. The area covered by the reconnaissance was about 200 square miles, comprising a large part of the "Louisiana marsh." The land is low, rarely rising more than 18 inches above the level of ordinary high water, but in a few cases shell-banks have been thrown up by wave-action, thus producing the maximum land elevations, in no case, perhaps more than 3 or 4 feet above tide. During storms the entire land area may be flooded, and in the disastrous hurricane of 1893 it was covered by from 8 to 12 feet of water. The soil is a stiff mud or blue clay, covered with a sparse growth of coarse grasses and scattered tufts of salicornia. Along the bayous there are clumps of mangrove bushes, but with the exception of several crab trees on Mudgrass island, there is probably not in the whole dreary expanse a plant reaching a height of 10 feet, nor is there a single human habitation.

The land constitutes a low-lying archipelago of irregular islands separated from one another by shallow bays, muddy lagoons, and tortuous bayous, the area of the water being somewhat greater than that of the land. The bayous are of two classes, rather broad, short, deep passes, like Nine-mile bayou, Three-mile bayou, and Deep pass, which serve as the main avenues of tidal flow to and from the interior bays, and long narrow water-courses which characteristically run lengthwise of the islands, as is seen in the cases of Door Point bayou, Dead Man bayou, etc. The bayous of the first class have generally a depth of from 18 to 42 feet, those of the second class from 5 to 12 feet, and all are more or less obstructed by bars across their mouths. The bottoms of the bayous are almost invariably composed of soft mud.

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The bays, with the exception of several of those opening into Chandeleur sound, communicate with the outer waters by narrow mouths. Their floors are comparatively level and, with one or two exceptions, are composed principally of soft mud, with scattered patches of hard mud and sand, usually so small in area as to be negligible in plotting the soundings. The depth of water is generally from 3 to 6 feet, although in some of the bays, particularly those to the eastward, there are channels through which a considerably greater depth can be carried.

The lagoons are very shallow, small-mouthed, blind bays, like Blind pass and Grecque bayou, with soft bottoms largely exposed as mud flats at low water.

Blind pass, Nine-mile bayou, and False Mouth bay.—Blind pass marks the western extension of the oyster in the marshes on the south side of Mississippi sound. It is a shallow lagoon communicating on the north with Mississippi sound, on the east by a narrow but deep cut, with Nine-mile bayou, while to the southward a tortuous bayou establishes communication with False-mouth bay. It

consists largely of a mud flat, exposed at low water, with oysters of rather inferior quality sparingly scattered over the bottom.

Nine-mile bayou is about two and a half miles long to its main entrance into False-mouth bay and has a width of from 100 to 300 yards. At its mouth there is a depth of about 18 feet, which rapidly shoals outwardly to 6½ or 7 feet. In the bayou the depth ranges from 17 to 39 feet, the average being about 24 feet. The bottom is soft, excepting that portion lying opposite the small island at the southern end, where hard mud was found. There are no oysters in this bayou.

False-mouth bay covers about 11.3 square miles. It connects with Mississippi sound by means of Nine-mile bayou, and to the eastward opens by a wide mouth into the passage between Raccoon and Mud-grass islands. The bottom is composed of hard mud of a somewhat clayey character, resembling that on the surrounding islands. The depth is almost uniform, in the northeastern part being from 3 to 3¾ feet and elsewhere from 4 to 5 feet. The density in the middle of February varied from 1.0048 to 1.0066 in the several parts of the bay, the temperature at the same time ranging between 16.5° C. (61.7° F.) and 19° C. (66.2° F.) The water is less saline than elsewhere in the marsh, owing to its proximity to the main sources of fresh water, the Pearl river and the discharge from Lake Pontchartrain.

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There are very few oysters in False-mouth bay, and those discovered by the reconnaissance were found fringing the three islands shown on the chart, as a scattering growth of single oysters of fine shape, round, deep, and about 6 inches long. The amount of young growth was small, a few oysters about 2 to 2½ inches long being found attached to the old ones, to clam shells and lying singly on the mud. A very small amount of spat was attached to the clam shells which fringe the northeast shore of the southernmost island. All of these oysters, both large and small, were extremely fat, but their flavor was insipid owing to the low salinity of the water. The oystermen state that the oysters are always fatter here than on the beds to the eastward, and that they are kept "cleaned up" by the boats which aim to carry the best oysters to the New Orleans markets. It is the custom of the oystermen to paddle around the shores when the water is clear and smooth and pick up with nippers the oysters which can be clearly seen. In December, 1897, a small bed was found in the northern part of the bay, but a number of boats went to work upon it and within a few days it was reduced to a state of practical extinction and we were unable to find any remnant of it.

An examination of the bottom by means of the dredge and tangles showed it to be remarkably clean and free from debris of all kinds. A few crabs of small size, several species of lamellibranchs, and numerous worms were the only living forms found on the hard bottom. Enemies are probably extremely rare, although it is possible that the drum-fish might cause damage upon beds of planted oysters. The conch was not found at all, although it is not uncom-

mon in the neighboring waters of Three-mile and Nine-mile bays.
The boring clam (martesia) is common, but it is less abun-
2228 dant than in the more saline waters, and in any case it would not prove detrimental to the oyster.

It seems probable that the scarcity of oysters in False-mouth bay is due in a large part to the lack of suitable places of attachment for the spat, and if this be so there is but little doubt that productive beds might be established by planting shells, together with a sufficient number of brood oysters to furnish fry. We found here the largest area of firm bottom discovered any where within the limits of the reconnaissance. In most other parts of the district the hard bottom is distributed in small patches, lying like islands in the midst of soft mud, but in False-mouth bay the shells and seed could be deposited almost anywhere without danger of becoming engulfed. The amount of oyster food is larger than almost anywhere else in the district the average number of diatoms in each liter of water 1 foot above the bottom being about 22,000. The extreme fatness of the oysters is also ample evidence of the abundance of food, although, of course, the amount available for each individual would become less if planting were extensively undertaken. The chief drawback to planting lies in the low salinity, which, as before stated, detracts from the flavor of the oyster, and if not corrected during the spawning season would also militate against the production of young. Without doubt, however, there is an increase in the density during the late spring and summer when fry abound. Material to serve as ultch or collectors for the attachment of the young oysters might e obtained from the island in the extreme southern part of the bay, here the shore is covered by a mass of clam shells, more or less nely broken up. The smaller particles of shells are too small for se, as the action of the storm waves in the shoal waters of the bay ould tend to carry them away; but many of the shells are entire, nd these, together with the larger fragments, should make excelnt cultch.

Nine-mile bay.—This body of water lies east of Pirate point and st and northwest of Raccoon island. It is continuous with Threele bay to the eastward, and in its northwest corner it communies with Nine-mile bayou by a channel in which the depth varies m 10 to 21 feet.

North of Nine-mile bay and in communication with it lies
29 South bayou, a lagoon-like body of water, very shoal and with no oyster-beds. The depth of water in the bay is between 4 and et, and the bottom is composed principally of soft mud. The sity on February 14 was about 1.0060, and the temperature at the e time was about 17° C. (62.6° F.) The oysters are obtained ncipally in the eastern part, between Raccoon island and the ning to South bayou, being generally single, much scattered, and ather good shapes. These beds, like those in Three-mile bay, much worked, and late in the season are composed principally ullings. There is a small bed of scattered oysters just off the

southeast point of Pirate point, which appears to have been established, or at least largely sustained, by artificial means as a result of bedding oysters for "fattening" purposes, the culled young growth and shells being carefully returned to the water to serve as seed and cultch, the product of which becomes available for market in subsequent seasons. This place is claimed by oystermen to possess remarkable properties as a fattening-ground, but as the oysters are brought from the denser waters to the eastward and exhibit their improvement within 24 hours from the time of bedding it is probable that the process is one of bloating rather than of fattening.

— small bed of oysters is found in the southeastern branch of Nine-mile bayou, about the middle of the second reach from Nine-mile bay, on the west side of the channel. It is from 30 to 50 yards long, and extends to about the middle of the bayou. It contains some single oysters of good shape and quality and many dead shells.

Three-mile bay.—Three Mile bay is the most important oyster region in St. Bernard parish, not because its beds are more extensive, than those of other parts of the Louisiana marsh, but because of its accessibility from New Orleans and the cities on Mississippi sound. Nearly all of the boats enter the marsh at Three Mile bayou, whatever may be their ultimate destination, and it is to this place also that oyster freighters resort to secure their fares from the luggers and other craft engaged in the active work of oystering.

Three-mile bay lies between Three-mile bayou (by which it communicates with Mississippi sound) on the north and Raccoon
2230 island on the south, its eastern and western limits being Nigger point and Shell point, respectively. It covers an area of about 7.3 square miles. In Three-mile bayou the depth of water reaches a maximum of about 40 feet, the channel gradually shoaling as it enters the bay, over the greater part of which the depth ranges from 4 to 6 feet. In some places a depth of 3 feet or less is to be found, but in general such shoal spots are less common than in West Karako bay. The average density of water during February was about 1.0065, and the temperature was about 17° C. (62.6° F.) The bottom is composed of mud of varying degrees of softness. There are a few small areas of hard bottom, but these are principally upon old oyster-reefs, and are now used by the oystermen as beds on which to deposit their catch pending the completion of their cargoes. The softest bottom is found in the southern part of the bay near Raccoon island, where the mud is entirely too soft to utilize for planting, but places in the center of the bay might be used, although on account of the danger of suffociation in the mud the oysters could not be planted very thickly. The amount of oyster food contained in the water is large, and, especially in the northern part of the bay near the inlet, the currents are comparatively strong. Originally, we were informed, the natural oyster-beds in this bay were dense and extensive, but as a result of the persistent "working" to which they have been subjected during the past few years the dense,

ell-defined reefs have entirely disappeared, and have been replaced
a scattering growth of more general distribution. The clusters
e kept broken up by the process of culling, with the result that
e separated oysters show considerable improvement in shape, con-
ion, and flavor over their original state. They are usually either
gle or in clusters of from two to four; they are rather elongate,
derately fat, of fair flavor, and comparatively free from extra-
us growths, such as mussels and algæ. On the very soft mud
r Raccoon island, in the southern part of the bay, the oysters
extremely long and in clusters overgrown with mussels.
Early in the season and until about January or February there
rather large proportion of marketable oysters, but later these
become caught up, leaving practically nothing except dead
l shells, spat and young growth. This was essentially the
condition of the beds at the time of our examination, and
r the middle of February it took about three times as long to
h a barrel of oysters as it did early in the season, and in the
r part of the month most of the fleet which had been oystering
e were forced to move farther into the interior. By the time
next season opens many of the young oysters which have been
d off will have reached a suitable size for market, and the
idence of one year thus ensures the plentitude of the next.
e it not for the moderate care with which the oysters are culled
he young ones and the dead shells returned to the beds whence
were taken, it is impossible that these beds should have so long
ined the demands made upon them. Were it the custom here,
is in certain other parts of the State, to carry off the young for
the phenomenon of the annual recuperation of beds previously
usted of their marketable stock would not be witnessed.
t all of the boats cull their catch as carefully as they should.
which carry their oysters to New Orleans and other markets
le as "shell stock," from motives of self-interest exercise due
for imperfectly cleaned and separated oysters bring a lower
than those which are well culled and free from extraneous
hs of barnacles, mussels and young oysters. The chief diffi-
is with those boats which catch oysters for the canneries, located
pally without the State, where the presence of small oysters is
jectionable.
s reported that dredges have worked in Three Mile bay, but
nditions are such that it is probable that this practice was
extensive.
t Karako bay.—West Karako bay embraces about 9 square
included between Crooked island and the land masses em-
g Johnson bay and its connections, and between the Raccoon
s and Shell island. Its greatest extent is east and west. The
resembles that of Three Mile bay, being composed princi-
f soft mud with patches of hard mud at wide intervals. The
depth over most of the bay ranges from 4 to 6 feet, but there
is a maximum depth of 8½ feet in the channel running from
Dead Man island to the cut north of Shell island, and there

are also a number of shoal spots upon which the depth is less than 3 feet, these shoals being usually covered with oysters. The average density of the water is about 1.0065.

The oyster beds in this bay are more extensive that in Three Mile bay, and there are also several well-defined reefs which can be characterized as dense. One of these lies south of Dead Man island and two others lie west of Shell island, about opposite its northern and southern points, respectively. The oysters on these reefs are of moderate size and in clusters of from 6 to 20. North, northeast and east of Dead Man island, as far as the mouth of Picnic bayou, are patches of scattered oysters in clusters. No attempt is made to indicate either their size or location on the chart, although they are shown in toto over the area mentioned. There are other beds of scattered growth, the limits of which are better defined, and these are plotted with some approximation to correctness. All of these oysters are of the same general character, being in clusters of from 6 to 20, rather thin-shelled and elongate, approaching in general the Raccoon type, and in some parts of the bay they appear to be more or less imbedded in the mud. They are to some extent clothed with brown alga, especially in that part of the bay lying east of Dead Man island, and many of the clusters bear a few mussels and barnacles. The amount of young growth is large. At the time of the examination most of these oysters were but moderately fat, and some of them were quite poor. They show many of the features exhibited by Virginia beds, and their quality would doubtless be improved by more extensive working, provided that proper culling methods were practiced. West Karako bay is resorted to by a number of boats, especially by those engaged in taking oysters for the canneries, and late in the season, after the beds of Three Mile bay become depleted of their more desirable oysters, some of the oystermen engaged in the "shell trade" also work there.

Johnson bay and Johnson bayou.—Johnson bayou is about 2 miles long, communicating at its southern end with an intricate series of bays and lagoons lying north of West Karako bay. At the entrance from Mississippi sound the depth of water is about 6 feet, but inside it deepens to 12 or 14 feet towards the west bank. The bottom is composed of very soft mud. It contains a very scattered growth of oysters throughout its length.

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Johnson bay is the easternmost and largest of the several bodies of water communicating with the bayou. It contains about 13 square miles. The bottom is principally soft mud, and the density was about 1.0062 during the first week in February.

There is a scattering growth of good oysters all around the shores, and a few also occur in the middle, where there is also an old, exhausted reef, the crest of which is dry at low water. It is about 150 yards long and 100 yards wide, and it constitutes the most extensive area of hard bottom in the bay. It could be utilized to advantage for planting. At the time when this bay was examined there were seven schooners oystering there, the captain of one of

hich stated that the oysters were much scarcer than formerly and at it took him from 10 to 17 days to get a load of 120 barrels. e oysters are gathered by small boats, of which each schooner s several, which go into the small bayous and alongshore, where y pick them up in the shoal water.

In the southern part of the irregular bays west of Johnson bay re is a bed of scattered oysters on the soft mud in a depth of from o 3 feet. They are generally in clusters of from 3 to 15, mostly nedium size, with a good growth of young oysters and some spat, more or less overgrown with mussels. It is stated that there is attering growth all over the irregular lagoons to the northward. density on the bed examined was 1.0066.

ast Karako bay, Northwest Jack Williams bay, and Picnic bay.—Karako bay lies between Shell island and Deep pass, the former rating it from West Karako bay and the latter placing it in munication with the waters of Chandeleur sound. It embraces t 7.4 square miles, its greatest extent being in a north-and- direction. In the northern half of the bay the depth varies 2½ to 4 feet, the bottom being composed principally of soft mud, often mixed with sand. Along the southern side of the island in the northern part, there is considerable hard mud and sand interspersed with soft mud, and also a few patches, or less limited in extent, in other places. In the southern half e bay the water averages somewhat greater in depth, being 4 to 7 feet. A channel runs from the northern point of Shell towards the mouth of Deep pass, the water reaching a maxi- depth of 16 feet near the point projecting into the southern the bay, and there is also some deep water near the upper ce to Deep pass. In this part of the bay the bottom is com- of soft mud almost exclusively. The amount of oyster food is reat.

East Karako bay there are about eight oyster reefs which are awash or exposed on their crests at low water. On and near rests the bottom is invariably hard, being composed of a mac- of sand and ground-up clam and oyster shells, closely com- with entire shells lying upon the surface. As a rule these are long and narrow in their exposed portions.

the crests of the reefs there is usually a scattering growth of oysters about 2 to 2½ inches long, together with a few large d considerable quantities of spat are attached to the dead which from the combined action of the sun and waves are bright and clean and admirably suited to serve as cultch. ung-growth oysters are usually single or in small clusters, well-shaped and flinty-shelled. Away from the crests of the bottom becomes gradually softer, finally merging with the ding mud, and as the bottom changes there is also seen a tion in the characters of the oysters. They occur in larger usually containing from 6 to 10 adult individuals; the se their flint-like appearance and become dark brown

and more or less overgrown by a dark-brown sea-weed, which appears to be especially abundant in the southern part of the bay. These oysters are invariably flat, thin-shelled, and the largest of them are usually not more than 5 inches long. Excepting a bed off the long point on the eastern side, all of the oysters in East Karako bay are inferior in fatness and flavor and are rarely taken by the oystermen. They mark the extreme condition toward which those in West Karako bay indicate a tendency,
2235 and no doubt represent the primitive state of most of the oyster beds of this region. If these beds were worked, there would doubtless result an improvement in the quality of the oysters, due to the breaking up of the clusters and the thinning out and better distribution of the individuals. It would be distinctly advantageous if many of these oysters could be gathered as seed and planted elsewhere, under restrictions advocated in the recommendations attached to this report, thus producing not only an improvement in the character of the plants, but also in the enviro-ment of those left upon the natural beds.

There are several places in the bay where the growth is quite dense, and over considerable areas there is an average of from 6 to 8 clusters of from 3 to 8 adult oysters each per square yard. Surrounding these, and more or less connecting one dense area with another, there are scattered clusters lying on the soft mud. The comparatively few oysters taken from the beds in this region are used exclusively for steaming, and the alga, which often grows in luxuriant tufts on the shells, detracts from the value of the oysters for this purpose, as it is extremely difficult to prevent its filaments from becoming entangled with the "meats."

Northwest Jack Williams bay is a northern extension of East Karako bay, and it bears the same general characteristics as are found in the northern part of the latter. Its density is about 1.0110, the depth of water is from 2½ to 3½ feet, and the bottom is composed largely of soft mud. Two beds of oysters were found—one in the center of the bay, where there are scattered clusters on the soft mud, and another around a shell island in the eastern part, the latter resembling the exposed reefs described above. There is also a scattered growth along the southwest shore.

Picnic bay extends westward from the bay just described, and at the strait connecting the two is a small bed of oysters which extends for some distance into the southern part of Drum bayou. There are also a few oysters scattered all over the bay, the mud there being very soft, with a number of dead shells imbedded beneath the surface. They are long, narrow, and sharp-edged, and grow in clusters, bearing mussels, barnacles and tunicates. The shells fre-
2236 quently contain dark vesicles filled with black muc. The density in this bay was several degrees lower than in the neighboring water, being but 1.0070. The depth rarely exceeds 2½ feet.

Drum bayou and Turkey bayou.—Drum bayou is a long, narrow

channel leading from Mississippi sound southward to Picnic and Northwest Jack Williams bays, and giving off a branch westward to Turkey bay. The depth of water ranges from 5 to 10 feet, with about 3 feet on the bar across the mouth. The density is about 1.0105 and the bottom is mostly soft mud. There are some large single oysters in the channel, together with many dead shells and some young growth, and at low water occasional large clusters of raccoon oysters are exposed along the banks. The oysters in the channel are rather long and narrow but at the time of examination were in fair condition and of good flavor. The creek leading into Turkey bayou possesses the same general features as the main stream, but has a depth of from 1 to 3 feet. It contains oysters of fair quality, both single and in clusters of from 3 to 10, some of them being very large.

In Turkey bay, the large lagoon discharging through Turkey bayou, the depth of water varies from 2 to 6 feet, the bottom being generally soft and muddy, and the density about 1.0076. There are three areas of scattered oysters, one lying in the channel between the eastern shore and a small island, and another being about a quarter of a mile from the entrance to Turkey bayou, and the third beginning opposite the channel opening to the westward and extending southward for about three-eighths of a mile. The latter bed is the largest of the three, and near the mouth of the creek there are some oysters, of good size and quality. This creek also contains a scattered growth of oysters, which becomes dense in the branch running to the northward, where the oysters are large and fine.

Grand pass, Bayou Grecque, and Shrimp bay.—Grand pass (Oyster bay) has an area of about 1.8 square miles. It opens on the north into Mississippi sound and on the southeast toward Chandeleur sound. The depth is generally between 2½ and 5 feet, but deeper water occurs on the west side of the small island in the northern part of the bay, where soundings of from 12 to 16 feet were found. Excepting in the vicinity of the oyster-reefs and in places along the shore, the bottom is composed of deep soft mud. The density during the first week in February averaged about 1.0100 and the temperature was about 10.5° C. (50.9° F.).

There are eight oyster-reefs in the eastern part of this bay, several of them being partially exposed at low water. A scattering growth of marketable oysters also occurs in the shoal water along the eastern shore, and on the middle third of the western shore we found a corresponding development of young growth. In the latter locality every shell or other hard body in the water has young oysters attached to it in clusters, and there is no doubt but that by exposing suitable cultch around the edge of the marshes, as is done at Bayou Cook and Whale bay, important and productive spatting grounds could be established and a supply of seed thereby secured which would be independent of the natural beds. It is stated that considerable quantities of oysters were to be found formerly in the

center of the bay, but that they had been exterminated by the dredges which operated there. At present there are practically no oysters and very few shells to be found away from the shores and reefs, but there is, of course, no indication of the means by which they were caught up if they ever existed in other parts.

Oystering here appears to be confined to the vicinity of the exposed reefs and the shoal water along the eastern shore. The oysters at the time of our examination were rather poor in shape, of moderate size, and inferior in flavor and fatness. They are usually found in small clusters. The conch is the most troublesome enemy with which the oysters have to contend in this vicinity. It is rather more common and destructive here than in the waters farther removed from Mississippi and Chandeleur sounds.

In the extreme southern part of the bay there is a very scattering growth and in the mouth of Jack Williams bayou there occurs a bar of raccoon oysters, partially exposed at low water. Raccoon oysters also occur along the shores between tide marks throughout the length of the bayou and in the small, muddy ditches opening into it, and in the channel are scattered clusters of oysters which are fairly fat and superior in flavor to those which are found on the beds of Grand pass.

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From the southwest part of Grand pass a tortuous, narrow, and in some places deep, bayou, leads south to a series of shoal lagoons, the entire chain constituting Grecque bayou. The lagoons have an average depth of about a foot, with a few holes 2 to 3 feet deep in places, and extensive mud flats around the margins. The bottom is usually very soft. The density varies from 1.0107 in the ponds near the entrance to 1.0119 in those at the end of the chain, the flow of water through the long, narrow communication with Grand pass being apparently insufficient to compensate for the increased evaporation on the shallow mud-flats. Over the greater part of these lagoons there is a very scattering growth of large and rather good oysters on the mud, and there is also a scattering fringe of raccoon oysters on the edge of the marsh. The oysters in Bayou Grecque are taken by small boats and carried to the schooners in Grand pass.

Shrimp bay and Southeast Jack Williams bay.—Shrimp bay lies southeast of Grand pass, with which it has direct communication by means of the upper part of Jack Williams bayou. Its depth varies from 1 foot in the northern and eastern parts to about 4 feet at the southern end, where it opens into Southeast Jack Williams bay, together with which it has an area of 1.7 square miles. Its density on February 3 was 1.0096. This bay contains five oyster-reefs, exposed at low water, with a scattered growth of oysters surrounding each. Near the reefs the bottom is hard from the accumulation of ground-up shells and sand, but elsewhere it is soft, and in the northern half of the bay with a hard substratum of dead shells about a foot beneath the surface. This portion of the bay appears to have been at one time an extensive oyster bed, which has been largely

destroyed by an accumulation of mud thrown down, some of the oystermen claim, by the great storm of 1893, and the reefs
229 which have already been mentioned, and several patches of oysters along the northeast shore, are now all that remain. There are also oysters in the bight on the eastern side of the bay, scattered more or less sparsely over the mud-flats, and near the small islands forming an exposed bar.

Upon the reefs the oysters are small and of the clustered raccoon type, but in the slightly deeper waters surrounding them there are some single oysters of good shape, but not very fat. In Southeast Jack Williams bay, which consists of a larger western and a smaller eastern arm, there are very few oysters, although the presence of shells beneath the surface of the mud indicates the submergence of beds formerly existing there. In the eastern branch there are a few shells lying on the surface of the mud, and in the lagoon at its southern end there are raccoon oysters along the banks and a few clusters in the channel in about 5 feet of water.

In the bay the depth is from 2 to 3 feet, the bottom being composed of soft mud. The density in the eastern arm was 1.0107 and in the western 1.0094.

Cranetown bay.—This bay which lies between West Karako bay and Southwest pass, has an area of 2.7 square miles, and a depth of between 3 to 6 feet, except near the mouth of Elephant pass, a broad bayou having a maximum depth of 30 feet, by which it communicates with Chandeleur sound. The bottom over most of the northern and eastern parts of the bay consists of soft mud, except upon and near the exposed crests of the reefs, but toward the middle of the west shore there is a considerable area of hard mud and sand. Being in such intimate connection with the outer waters via Deep pass and Elephant pass it is not surprising to find that the water here is denser than on most of the other oyster-beds of St. Bernard parish, ranging from 1.0139 to 1.0163. The amount of oyster food, as measured by the number of diatoms, is small. The currents are rather strong.

In the northern part there are several dense beds of oysters, which have their crests bare or awash at low water. Surrounding these, as well as on the west side, there is a scattering growth of oysters in clusters. In general character these beds resemble those of East Karako bay, the oysters being inferior both in shape and
230 flavor. Near the crests of the reefs there is a considerable quantity of young oysters in small clusters attached to dead clam and oyster shells.

On the northeast shore, in the small bay between Deep pass and Elephant pass, there is a bed of scattering oysters in small clusters. These are of fair size and fatness, and in general somewhat superior to the other oysters in the vicinity. A scattering growth of rather large oysters and many dead shells are found in the mouth of the bayou opening into the southwestern part of the bay. These are the fattest and best oysters in the vicinity.

Kerchimbo bay lies west of Cranetown bay, with which it communicates by the bayou just mentioned. It opens southward into Southwest pass, westward by an artificial cut into East Karako bay, and northward into the same bay by a bayou containing a few good-sized oysters and many dead shells. The depth of water is about 3½ feet, excepting near its upper end, where there are barely 2½ feet in the channel. It contains several old reefs, composed of dead shells and a scattering growth of rather poor oysters of medium size. According to the testimony of the oystermen there are good oysters scattered all over Kerchimbo bay, but the reconnaissance did not discover them.

Southwest pass.—This is a long, narrow body of water stretching from Cranetown and Kerchimbo bays on the northeast to the entrance to Drum bay on the southwest. It is about 9 miles long, and its width varies from ½ to 1¼ miles, the average being about ¾ mile. The area is about 7.9 square miles, and the depth is generally between 3 and 4 feet, although deeper water is found near the island in the center and some of the oyster-beds are in a depth of less than 2½ feet. There is considerable hard bottom, and in the southern two-thirds hard mud is the predominating characteristic. The density is somewhat greater in the northern part of the bay, where it averages about 1.0120 as compared with an average of 1.0085 in the southern part, this difference appearing to be due to the closer communication with the exterior waters in the north and with the interior bays and bayous, by way of Catfish pass, in the south. The water contains a fair amount of oyster food, more than Drum bay but less than either East Karako or Indian Mound bays,
2241 which lie to the north and west, respectively. There are good marketable oysters distributed throughout practically the entire length of Southwest pass. In most cases the growth is scattering, but north of the island, near the center of the bay, is a reef on which there is a dense growth of small oysters in cluster, together with a few good ones of medium size and some dead shells. This appears to be an old reef, from which the marketable oysters have been nearly all removed, but its condition is such that it will again be productive within a year or two. There is a scattering growth of oysters, in clusters of from 3 to 5, extending eastward from the denser portions of the bed.

A scattering growth also occurs near the shores of the island, and just south of it there are small patches distributed over the bottom, none of them being extensive enough to be called a bed, but constituting in the aggregate quite a large body of oysters. In the southern half of the pass there is a growth along shore on both sides of the channel, where the oysters are in clusters, much scattered, and all of fair quality. These beds appear to be rather extensively worked, and it is said that large quantities of oysters have been taken from there to the markets and that prior to the Atchafalaya crevasse in 1890 they had been almost exterminated by excessive tonging.

Drum bay.—Drum bay lies southeast of Southwest pass, with which it communicates by a broad pass at the western end. Including the waters as far east as Keelboat pass, the bay embraces about 12 square miles. North of Drum bay, and separated from it by a long, irregular island, there are two shallow bays, having together an area of about 1.7 square miles. The water in Drum bay is from 3½ to 6 feet, deep, the general depth being greater to the eastward, where, between the two islands lying northwest of Keelboat pass, there are 19 feet of water in one place. In the composition of the bottom hard mud predominates, but it is interspersed with areas of soft mud. The density varies from 1.0101 near the western pass to about 1.0150 in the eastern part, near Keelboat pass. The amount of oyster food, as determined by an examination of the water, appears to be small.

There are oysters scattered all over this bay as far as the entrance to Chimney bay. There is one very dense bed about ½ mile 2212 long and ¼ mile wide, lying near the center of the bay, and northwest of it lies a smaller reef, where the oysters are equally dense. Upon these beds the oysters are in clusters of from 3 to 10, of the raccoon type, poor in shape, condition and flavor. These reefs are not worked and there are about 18 inches of water on their crests at low tide. There is a scattering growth of oysters over a large part of the bay to the westward of the reefs just described, especially along the shores, and lying across the narrowest part is a reef of clustered oysters of fair quality. The best oysters, so far as flavor and condition are concerned, are found on a small bed northeast of the entrance to Chimney bay, but the growth there is very scattered and the bed is apparently nearly exhausted.

A dry shell reef lying north of this bed is now extinct as an oyster-ground, being composed entirely of dead shells, and it — stated that a bed of excellent oysters formerly existed between the two islands to the eastward, but that it was exterminated a number of years ago by tonging. No indication of it now remains.

In Julius pass, in some parts of Scow pass, and in Chimney bay there are, according to the statements of the oystermen, a few scattering oysters, but except the former these waters were not examined. There is a scattering growth in the two bays north of Drum bay, where the water is very shoal and the bottom muddy. The amount of young growth in Drum bay is fair. The clusters are overgrown to a slight extent with algæ, barnacles and mussels.

California bay.—In the head of California bay the depth varies from 3 to 5 feet and the bottom is composed almost entirely of hard shell. Excepting at the mouth of Dead Man bayou, there are no oysters, but several beds of dead shells were found. At the mouth of the bayou there is a scattering growth of fine, large, single oysters of excellent flavor and fatness. Formerly such oysters were found throughout the bayou and we were informed that in the winter of 1896–97 about 2,000 barrels were carried away from this place, and

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our soundings and examination showed that practically none are left.

Fox bay contains a few scattering oysters near its eastern end, and there is a small bed in Redfish bend near Elephant pass.

2243 Indian Mound bay.—This is the largest body of water in the Louisiana marsh, and it contains more good, marketable oysters than any other of the bays within the limits of this reconnaissance. It lies between Crooked island and Catfish pass, and between Mudgrass island and the long island forming the western side of Southwest pass. Its area is about 21 square miles and its depth averages about 4 feet and ranges between 3 and 5 feet. Its density is least in the northwestern part and greatest in the southern part, as may be seen from an inspection of the chart; the average for the entire bay was about 1.0070 somewhat greater than in West Karako bay and less than in either East Karako bay or Southwest pass, with all of which it is in communication. The amount of oyster food in the water is large.

Practically the entire shore of this bay is fringed with oyster-beds, and there is besides a scattering growth around the islands in the middle. In the northeastern part, between Crooked island and Mudgrass island, there is a dense bed about ¾ mile long by ⅜ mile wide. The oysters on this bed are of good size, single and in clusters, and quite fat, although the flavor at the time of examination was poor, owing to the low salinity of the water. In the northeast corner of Indian Mound bay, there is another bed of dense growth extending in a northeast and southwest direction for about 1½ miles, with a maximum width of about ⅜ mile, and running off westward into a scattered growth of considerable extent. This bed constitutes the largest single body of good oysters in the region covered by the reconnaissance. They grow principally on the mud bottom, in clusters of from 3 to 10, their upper valves being dark with broad coriaceous edges, which usually indicate rapid growth, the lower valves being flinty and sharp-edged. Notwithstanding the denseness of this bed, the oysters are generally fat and in good order, and the flavor is excellent. There is some growth of alga on the clusters here, but it is much less luxuriant than on the beds of Karako bay. Taking into consideration the abundance and character of the oysters on this bed, it is but little frequented by the oystermen, not more than two or three vessels being seen upon it at any time during our visit.

2244 South of this bed is another dense body of oysters of somewhat similar character, but smaller in extent. On both beds there is an abundance of young growth and spat.

Near the middle of the northern part of the bay lies another dense bed, fringing a long, narrow reef, exposed at low water. The oysters here are mostly in clusters and covered with a considerable growth of alga, mussels, and barnacles. Most of the other oysters in this bay are more or less scattering, but in the extreme southern part, just north of Catfish pass, there is a dense bed of good oysters

urrounded by a considerable area of more scattered growth. Sev-
ral vessels were oystering here, and a considerable quantity of
ysters is caught late in the season, after the beds of Three-mile
ay and vicinity have been somewhat exhausted.

North and west sides of Mudgrass island.—These shores are
rgely composed of very soft, deep mud, a condition which has a
ry palpable effect upon the character of many of the oysters,
hich assume an extremely narrow, elongated form, and grow in
verted pyramidal bunches, the lower members of which are im-
rsed in the mud. On the north shore there are three areas of
ise growth. Two of them are situated near the northwestern
nt of the island, on moderately hard mud, the oysters being
ge and single or in small clusters, with an abundance of spat
ched. The third bed lies in a deep bay near the western end of
north shore, close to the point the oysters being of fair shape
quality, but on the soft bottom which constitutes by far the
ter part of the bed they are long, narrow, and sharp-edged as
ribed above.

ear the middle of the west side of the island, lying in a cove, is
nse bed of rather good, large oysters on hard bottom. There
few barnacles here, but mussels are abundant. The rest of the
rs on the west side of the island are of the kind described as
cteristic of the soft bottom.

easure bay, Mussel bayou, and vicinity.—The waters included
r this heading, except a portion of Treasure bay, are not shown
upon the accompanying chart, inasmuch as a proper survey
has never been made. They embrace an intricate system of
shallow bays, and bayous lying southwest of Indian Mound
The bottom is almost everywhere composed of a very soft,
nud, and the density of the water is low. The oysters are
y long, narrow, clustered, and rather poor in condition and
The shells are covered with great clusters of large mussels
ne barnacles, the growth of the former being more luxuriant
any other place in the parish of St. Bernard. Immediately
f Dutchman pass there is a rather dense bed of oysters lying
ht behind a small island. Upon the denser parts of this bed
ters are rather small and are in clusters, but near the edges,
leeper water, there is a scattering growth of single oysters of
t shape and flavor and very fat. A limited amount of
growth is found upon these single oysters, but the denser
near shore is well covered with spat. The bottom in the
of this bed is composed of hard mud.

sippi sound.—There are probably beds of oysters scattered
there on the shoals throughout such parts of Mississippi
fall within the limits of St. Bernard parish, but with the
of those near the entrance to Lake Borgne and in the
f Isle à Pitre they are rarely or never worked by the oyster-
were not investigated by the Fish Hawk. Scattered
ver the whole stretch between Lake Borgne light and St.

Joseph island, but as they lie within the limits of the State of Mississippi they are not represented on the chart. In the deep waters lying between Lake Borgne light and Half-moon island many small beds of oysters are found in depths of from 7 to 25 feet, most of them being in less than 15 feet. These beds, being small and numerous, could not be definitely located without the consumption of more time than was at our disposal, and they are therefore indicated only in the most general way on the accompanying chart. Upon most of these the growth was a scattering one, but there was one bed lying in 8 to 10 feet of water which was quite dense. There is another dense bed lying on the northeast side of Half-moon island, close inshore and in a depth of from 3 to 7 feet, where all of
2246 the oysters were small, apparently the result of last year's spatting, and in dense clusters. They will probably be fit for use in the canneries next season, but unless broken up and transplanted they will never be suitable for the "shell trade." This is evidently an old bed recently rejuvenated.

About two miles east of Half Moon island lies a bed known as Grand bank. It is in from 9 to 13 feet of water and extends about north and south for about 1¼ miles, with an average width of about ⅜ mile. The oysters here are in bunches, rather scattering and of small size. It is stated that this bed was formerly very productive but that it has been ruined by steam dredges.

On the south side of Half Moon island, there is a scattering growth beginning near shore and extending out for a distance of about a mile. The oysters here are not uniformly distributed, but occur in patches usually of small size, although there is one large bed, triangular in shape and measuring about ½ mile in base and altitude.

South of Grassy island is a circular patch of scattering growth about ½ mile in diameter. About ⅜ mile southwest of the same island lies a smaller but somewhat denser bed.

A dense bed circular in shape and about ½ mile in diameter, occurs southwest of Round island, in about 6½ to 7 feet of water, and from the southwest side of the island a very scattering growth extends for about ½ mile, where it merges with a well-defined bed.

Off the north point of Le Petit Pass island is a bed of scattering oysters, and on the east side there is another bed, a portion of which is covered by a dense growth. About midway between Le Petit pass and Nine Mile bayou there lies a crescentic bed, beginning ¼ mile from the shore and stretching in a general northeast direction for about 1½ miles. Upon all of these beds the oysters are poor in size, shape and flavor, being in clusters of the raccoon type, and fit only for use in the canneries. At the time that these beds were visited there were a number of vessels working upon them with tongs, and between Half Moon island and Lake Borgne a steam dredge was engaged in scraping the bottom. The oystermen claim that the dredges have caused much harm in the vicinity. The water here is always comparatively fresh, owing to the discharge

from the Pearl river and Lake Pontchartrain, and apparently
2247 the oysters are sometimes killed by the low salinity, an explanation which would account for the existence of beds composed entirely of young growth on old, dead shells. In the latter part of February the average density of the water north of Half Moon island was 1.0012, and south of the island is was 1.0028. This was without doubt lower than normal, as the readings were taken immediately after a period of heavy rainfall. It is doubtful if the oysters could withstand such a low density for any considerable period and they probably do so for a limited time only by tightly closing their shells against the admission of the objectionably fresh water. It was noticed that certain marine animals, notably species of worms, were either dead or dying on the beds of Half Moon island.

There is a small bed of oysters just at the mouth of Turkey bayou, and a considerably larger bed, now almost exhausted, lies about ½ mile offshore, midway between Drum bayou and Grand pass.

Lying south and southwest of South Shell bank and stretching as far as the north of Grand pass there is an extensive oyster bed known as Cabbage reef. It receives its name from the abundance of the seaweed ulva, known to fishermen as "sea cabbage." The growth on this bed is very scattering and it appears to be rarely worked by the oystermen, although formerly it was an important oyster ground. It is stated that the oysters here were nearly exterminated by the conchs and that most of those not so destroyed were covered with mud and sand during the great storm of 1893. Practically continuous with this bed there is a moderately dense growth skirting the north shore of Isle à Pitre and extending more or less into the bayous, as far as the edge of the deep water lying to the westward of Deep-water point. Most of these oysters, both along shore and on Cabbage reef, are of moderate size and in clusters of from 5 to 5. There are but few mussels or barnacles, but there was in February a moderate growth of seaweed, which is said to become more extensive later in the season. Young growth and spat are abundant. East of Deep Water point there are no oysters excepting scattering growth in a salt pond, now closed, but formerly an open lagoon.

Chandeleur sound.—There are now according to the testimony of the fishermen, very few oysters to be found in Chandeleur
248 sound, although there were formerly beds of considerable extent in several localities. No detailed examination of this region was made, although the shores were explored in a few places. There appear to be a very few, if any, oysters on the outer shore between Isle à Pitre and Door point, but there were formerly some more or less extensive beds between Door point and Pelican point, as well as in the neighborhood of Brush island and outside of Deep pass. In Live Oak and California bays, around the shores of Martin, on Holmes and Mitchell islands, there are beds of old shells where there were formerly productive oyster reefs frequented by oyster-

men. The general opinion of oystermen is that these beds have been exterminated by the conchs.

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Endorsed: Mississippi Document No. 82. Filed September 22, 1904. Wm. D. Bullard, commissioner for the State of Mississippi. Office Supreme Court U. S. Filed March 13, 1905. James H. McKenney, clerk.

(The map referred to in the foregoing document is the same map made part of the bill of complaint as diagram 4. The copy attached to Document No. 82 will be found in Miss. Atlas of Maps.)

2249

First Annual Report
of the
Oyster Commission of Louisiana
to
His Excellency, the Governor, and the General Assembly of the State of Louisiana.
August 11, 1902, to January 31, 1904.

New Orleans, La.
May, 1904.

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First Annual Report
of the
Oyster Commission of Louisiana.

To his excellency Newton C. Blanchard, governor, and the General Assembly of the State of Louisiana:

In obedience to the provisions of act 153 of 1902, the Oyster Commission of Louisiana begs to submit this, its first annual report, covering the period from Aug. 11th, 1902, to Jan. 31, 1904, or the first 18 months of its existence.

The members composing this commission, to wit:

Mr. N. H. Nunez, of St. Bernard parish, La.
Capt. Ben Michel, of Plaquemines parish, La.
Mr. F. P. Parra, of Lafourche parish, La.
Mr. James M. Breaux, of Terrebonne parish, La.
Mr. Thomas Shannon, Jr., of St. Mary's parish, La.

having been appointed to their positions by his excellency, Governor W. W. Heard, and having taken their oaths of office, met in the city of New Orleans on Aug. 11, 1902, for the purpose of

2250 effecting an organization, and this they proceeded to do by electing the following officers, to wit:

President: J. M. Breaux, Terrebonne parish, La.
Secretary: J. R. Langridge, Jefferson parish, La.

Chief inspector: Harry Cage, Terrebonne parish, La.
Chief surveyor: Hugh C. Smith, St. Bernard parish, La.
Attorney: John Dymond, Jr., Plaquemines parish, La.
Official journal: The Plaquemines Protector, of Plaquemines parish, La.

For a moment trying to look back over the history of oyster legislation in our State, in order to appreciate the conditions that confronted this new board, we find that the first instance where an effort was made to control our oyster industry was by act 18 of the legislature of 1870, when the State fixed a close season, or determined certain points of time between which oysters could not be fished in the waters of this State.

By act 91 of 1871, this close season was shortened by one month.

It was in 1886, by act 106 of the legislature of that year that the State first undertook to legislate in any manner comprehensively on the subject of her oyster industry.

Owing to a lack of familiarity with our own requirements, but appreciating the necessity that something should be done, that legislature adopted bodily the then oyster law of the State of Maryland. It is but natural to suppose that an oyster law suitable to the requirements of the State of Maryland would not necessarily fulfill all our wants, yet the intention was most excellent. Under this Maryland law, the State was divided in three oyster districts, and the governor was authorized to appoint an oyster commissioner for each district. Boats and vessels were required to take a license before fishing oysters; oysters had to be culled on the natural reefs; a close season was established, and the police juries of the several parishes were authorized to lease bedding grounds, not to exceed three acres, to any one person, at an annual rental of 25 cts. per acre.

The above law continued on the statutes for six years, or until the act 110 was adopted by the legislature in the year 1892. The 2251 salient differences between this and the former law, consisted in the fact that the three oyster districts were abolished, the police jury of each coast parish was vested with exclusive jurisdiction of the waters within each parish, each police jury appointed its own oyster inspector, and boats and vessels desiring to fish oysters, had to get separate licenses for each parish in which they desired to fish. The area of barren bottom which could be leased by any one person, firm or corporation was increased to 10 acres, and the annual rental remained at 25 cts., per acre.

By act 121 of 1896, the law of 1892 was amended to the extent of exempting bedded oysters from taxation.

It was a notorious fact that these oyster laws, existing from 1870 to 1900, were recognized more in their breach than in their observance. This was due to the fact that there was no centralized, effective form of control of the State's industry, and no one, other than the oyster fishermen and those directly engaged in the industry, knew anything about the industry or the necessities for legis-

lation, although every one knew that the existing conditions were not satisfactory.

In 1900, the legislature of that year by act 159, concluding that it was time that the industry should be studied, and that some intelligent information should be gathered concerning the subject, so that adequate legislation might be enacted formed a legislative investigating commission, composed of two senators and three representatives, who studied the industry during the intervening two years and made their report to the General Assembly of 1902, which was amended and resulted in the adoption of act 153 of that year. The salient feature of this act was that the governor of the State was authorized to appoint five persons who should constitute the Oyster Commission of Louisiana, which body by the provisions of the act was vested with the control of the industry, and required to compile statistics, and to make recommendations which would be laid before the Legislative Assembly of 1904. The idea was an experimental one. The results under the former laws were entirely unsatisfactory. The new law generally remained the same as the old law, except that there was appointed this commission to study the in-
2252 dustry, compile statistics and make recommendations.

When your commission met therefore, on Aug. 11, 1902, it was confronted with a most difficult undertaking. It must first instill into the minds of those engaged in the oyster industry the necessity of ob-erving laws, which, as stated, the fishermen had been accustomed to recognize more in their breach than in their observance. They must evolve order out of chaos.

Whatever statistical data existed, consisted solely of the recordation of bedding grounds leases, scattered over the coast parishes of the State in the records of the respective police juries, and it at once became necessary to concentrate this data in systematic shape in the office of this commission. The season for the opening of the oyster industry was closely approaching; namely, on the first of September, for the purpose of fishing oysters for beading purposes; and it therefore became necessary to make herculean efforts in order to be prepared for the work as it came. Your commission established its offices at No. 339 Carondelet St., in the city of New Orleans, at which regular meetings were held on the third Wednesday in each month. It established its office force, equipped its office with furniture, circulated copies of the oyster law, published in the coast parishes the notices required by the law and prepared and circulated the necessary blank forms for systematically conducting its business. All boats and vessels engaged in the oyster business, some fifteen hundred in number, had each to be measured up so that licenses might be issued to them, and ports of entry had to be established where the taxes would be collected.

Your commission divided the ten coast parishes of the State into the following inspection districts, appointed therefor the following deputy inspectors and collectors at the salaries indicated and established the following ports of entry, to-wit:

Inspection district No. 1, to include the parish of Orleans, Joseph Jurish, deputy inspector, at $60.00 per month. Ports of entry at Lugger landing on the Mississippi river and at Old Basin.

Inspection district No. 2, to include the parish of St. Bernard, Alfred C. Ruiz, deputy inspector, at $60.00 per month. V. M.
2253 Guiterez deputy inspector at $40.00 per month. Ports of entry at the factory of Louisiana Oyster Co., Ltd., Rigolets, La., Dunbar, La., and the Ship Island canal locks, on the Mississippi river.

Inspection district No. 3, to include that portion of the parish of Plaquemines, east of the Mississippi river, Joseph A. Yuratich, deputy inspector, at $60.00 per month. Ports of entry at the factory of Neptune Canning Co., Ltd., Ostrica, La., Thomas Brophy, collector at $15.00 per month, Pilot Town, La., B. J. Williams, no salary.

Inspection district No. 4, to include that portion of the parish of Plaquemines, west of the Mississippi river, Gustave Shoenberger, deputy inspector, at $60.00 per month.

Inspection district No. 5, to include the parish of Jefferson, and that portion of the parish of Lafourche, east of Bayou Lafourche, L. Adam Bellanger, deputy inspector, at $60.00 per month. Ports of entry, Westwego, La., W. W. Osborn, collector, at $20.00 per month, Cutoff, La., Elie Ducos, collector, at $15.00 per month.

Inspection district No. 6, to include that portion of the parish of Lafourche, west of Bayou Lafourche and that portion of the parish of Terrebonne as far as the east bank of Bayou Little Caillou, and Last island, Thomas Prevost, deputy inspector, at $60.00 per month. Ports of entry, Houma, La., J. D. Brown, collector, at $50.00 per month.

Inspection district No. 7, to include that portion of the parish of Terrebonne, west of the east bank of Bayou Little Caillou, including Last island, Alidore Guidry, deputy inspector, at $60.00 per month. Port of entry, Houma, La.

Inspection district No. 8, to include the parishes of St. Mary and Iberia, to the west coast of Vermilion bay, James Furlong, deputy inspector, at $60.00 per month. Ports of entry Berwick, La., Alonzo Gilmore, collector, at $50.00 per month. Morgan City, La., Henry Wolf collector, at $50.00 per month.

Inspection district No. 9, to include the parish of Vermilion, E. W. Gaspard, deputy inspector, at $5.00 per month. Port of entry, Abbeville, La.

Inspection district No. 10, to include the parish of Cameron. Port of entry, Cameron, La.

2254 During the course of its two years' existence the employees of the commission necessarily changed from time to time. On Jan. 21, 1903, Mr. John R. Langridge, our secretary resigned to accept the position of clerk of the court of the parish of Jefferson. The commission regretted very much to lose the valuable services of Mr. Langridge. His position was at once filled by the election of Mr. Andrew G. Gugel, also of the parish of Jefferson. We give

herewith a roster of the officials and employees of the commission as follows:

Commissioners.

($10 per Diem.)

Jas. M. Breaux.
N. H. Nunez.
Ben. Michel.
Frank P. Parra.
Thomas Shannon, Jr.

Officers and Employees.

A. G. Gugel, secretary, $100.00 per month.
Wm. M. Jungblut, assistant secretary, $75.00 per month.
John Dymond, Jr., attorney, $100.00 per month.
H. C. Smith, chief surveyor, $150.00 per month.
Harry Cage, chief inspector, $83.33 per month.
C. M. Bourg, secretary to president, $60.00 per month.
Mrs. R. Cure, clerk to fin. com., $20.00 per month.
Joseph Jurisich, deputy inspector, $60.00 per month.
A. C. Ruiz, deputy inspector, $60.00 per month.
Joseph A. Yuratich, deputy inspector, $60.00 per month.
Gus Schoenberger, deputy inspector, $60.00 per month.
B. J. Williams, deputy inspector, no salary.
L. A. Bellanger, deputy inspector, $60.00 per month.
A. E. Guidry, deputy inspector, $60.00 per month.
C. A. Johnson, deputy inspector, $60.00 per month.
Elie Ducos, deputy inspector and collector, $15.00 per month.
J. D. Brown, deputy inspector and collector, $50.00 per month.
E. M. Farray, deputy inspector and collector, $5.00 per month.
2235 Wm. Dillard, engineer of launch Nita, $50.00 per month.
Two sailors, on schooner Majestic, at $30.00 each per month.

Certain of these employees whose services are not required during the closed season, such as deputy collectors, are laid off. During the first season the commission was compelled to reduce the salaries of all of its employees.

The oyster commission was absolutely without funds to carry on its work, and was compelled to collect its revenues in order to pay its employees. These revenues consisted of a license tax of 50 cts. per ton on vessels engaged in the oyster industry, a license of $2.00 for each tongman engaged in fishing oysters, a license of $100.00 on each canning factory, and $25.00 on each oyster shucking establishment and those who bought, shipped and resold oysters. The law levied a privilege tax of 2 cts. per barrel on each barrel of oysters fished for consumption, and stipulated a rental of $1.00 per acre for each acre of bedding ground leased. The deputy inspectors were instructed to see that the vessels and tongmen, as well as can-

nate and shuckers secured their licenses. Each one of the 1500 boats and vessels engaged in the oyster industry had to be individually inspected and measured in order to determine the tonnage upon which the respective vessel licenses would be paid. Each vessel was given a number, and it was the duty of the inspectors to see that these vessels displayed their numbers on their sails and hulls, as required by the law. Where a considerable amount of trading in oysters was done, it became necessary to establish ports of entry, and to appoint deputy collectors, in order to provide for the collection of 2 ct. tax levied on the oysters marketed.

Where the oysters were carried by regularly established lines of common carriers, the commission endeavored to arrange for the collection of the tax on the bill-lading, and succeeded in doing this with the New Orleans, Fort, Jackson & Grand Isle Railroad Co., and the Lower Coast Packet Company, in the parish of Plaquemines, both of these companies settling direct with the sheriff of the parish of Plaquemines. Where the commission has been able to arrange with the factories to submit sworn returns of oysters handled, 2256 and thus save the expense of collectors it has done so.

In addition to the above force of inspectors and collectors established by the commission, it was necessary that the commission should establish and maintain a separate patrol system in the waters of the Mississippi sound in order that the provisions of the Louisiana law prohibiting non-residents from fishing oysters in our waters might be enforced. The boundary dispute on hand with the State of Mississippi rendered the policing of this territory additionally expensive and difficult.

Being without funds at the initiation of this work, and having not only to provide for the payment of its several employees, the establishment of a systematic control of the oyster industry, but also to acquire the necessary patrol boats and vessels to make such control effective, it became necessary for the commission to borrow the money needed for its immediate requirements, and a contract to this end was made with the Louisiana national bank, which lent the commission the necessary funds, and which were repaid by the revenues of the commission as they were subsequently collected. Every existing oyster bedding ground lease had to be registered with the commission and a plan of survey furnished, so that the foundation could be laid for an oyster map of the State of Louisiana.

The official statement of the secretary approved by the finance committee will show the financial operations of the commission and the condition of the finances of the commission at the end of the period covered by this report.

This is the first instance where there has ever been any statistical data compiled in regard to the extent of the oyster industry of Louisiana. In making provisions for the expense incident to this and in calculating upon its possible revenues, the commission was compelled to guess at what its revenues would be and keep down its expenses as much as possible, as there were no statistics whatever

that it could turn to in order to get any more definite data. This of itself, was quite embarrassing, and although the commission got the best data it could from the sources available, the oyster crop which the legislative investigating commission estimated to be 700,000 barrels was found at the end of the year to be about 225,000 barrels less than had been estimated. Making its budget on a basis of the original estimate, the commission was, therefore, embarrassed by the failure of its revenues to meet expenditures, and having been compelled to go to an expense of about $4,000.00 in purchasing its two patrol boats; namely, the schooner "Majestic" and the launch "Nita" the greatest economy had to be practiced immediately after finding that the revenues would not come up to the expectations, and as a matter of fact, an insufficient patrol system had to be subsequently maintained, because there were not the necessary funds to carry on and maintain the patrol system as it should be conducted, and the salaries of all employees were reduced.

The oyster season in Louisiana extends from Oct. 1 to Sept. 30, and it is the intention of the commission that hereafter its reports should be made according to this period of time. The commission is pleased, however, to be able to report that while it has had a hard struggle to make both ends meet, it has, as a result of its efforts, notwithstanding the restrictions of the present law, met all of its obligations, come out more than even on expenses, and still has on hand its patrol boats, office furniture, and that character of permanent investment, representing an available capital of about ($5,000.00) five thousand dollars, including the cash on hand. During the first season, extending from September 1, 1902, to August 31, 1903, the commission issued licenses to 1574 boats and vessels, 1953 tongmen, 27 dealers, 3 canners. The quantity of oysters marketed during that period equaled four hundred and seventy-two thousand one hundred and ninety-one (472,191) barrels, or one million six hundred and seventeen thousand and forty-four (1,617,044) bushels valued at over seven hundred thousand dollars ($700,000.00). From August 11, 1902, to January 31, 1904 the total revenues of the commission were $36,816.15, and its disbursements during the same period of seventeen and one-half months were $36,148.96, which included the cost of a permanent investment of about four thousand dollars ($4,000.00) now on hand in the shape of patrol boats and other equipment. In 18 years under the old laws there had been made 512 oyster bedding grounds leases aggregating 2820.52 acres, or an average of 7.6 acres per lease. In the 18 months of the 258 commission's existence 238 leases, aggregating 2677.10 acres were made. In other words, the commission has leased in 18 months nearly as many acres as was leased in the previous 18 years.

As previously stated, the commission caused all existing bedding ground leases to be registered in its office. A limit of time was fixed within which tenants should so register their leases, and as a

of this registration it developed that from 1886 to 1902, there
en as stated 512 continuous leases of oyster bedding ground
covering a total area of 2820.52 acres, or an average of 7.6
er lease. The commission found that the State owns between
d six million acres of water bottom more or less suitable for
cultivation. Of these, less than 50,000 acres are covered by
here oysters grow naturally. About 2800 acres were under
nd the balance of over five and one half million acres were
dle. The leases made by the police juries and registered
e commission are shown in detail in the secretary's report.
ds whatsoever were under lease in the parishes of Orleans,
y, Iberia, Vermilion or Cameron. The commission has done
to increase the area of bedding grounds rented for the pur-
oyster cultivation, as it recognized that each acre rented
an increase of the State's revenue of at least $3.00 per annum,
owing to the restrictions of the present oyster law, it has
ed in leasing since Aug. 11, 1902, less than 3,000 acres, al-
it is reliably informed, and has every reason to believe that
ense quantity of this idle barren lands could be leased and
into cultivation, if legislation were had which would tend
rage the investment of capital in this industry and protect it
ce invested.

ommission finds that the oyster industry as it is carried on
onsists almost exclusively in an absolute dependence on the
of the natural oyster reefs for our oyster supply. The expe-
other States, as found in the studies made by the commis-
icate this to be a most unwise policy. We know of no in-
ustry where dependence is had entirely upon the natural
ild product. We know that one acre of water bottom under
ltivation will, at the very minimum, produce 100 barrels
s per annum, and we know further that the last annual
op was less than half a million barrels. From this it con-
follows that the total oyster crop of Louisiana for the past
uld have been produced on a 5000 acre oyster farm properly
d. The oyster commission is alive to the immense possi-
oyster production possessed by Louisiana. We know that
ill grow in our warm southern waters about three times as
s they will grow on the Atlantic coast.

ing these natural advantages, the only thing that stands
ur oyster industry and development, the commission finds
illogical restrictions, which for twenty years past have been
in our successive oyster laws. These restrictions have
ough an ignorance of the true facts, and now that we know
se these provisions are, they should immediately be re-
m the statutes. Your commission, during the past two
ts existence, has necessarily been compelled to take the
as it is, no matter how imperfect it has found it to be.
he chief aims of the commission has been its desire to aid
way it could those engaged in the oyster industry, and

wherever complaints or suggestions have been made they have had our earnest consideration.

Learning that vessels entering the Mississippi river en route from Texas were accustomed to pump out their bilges and discharge fuel oil in the river, which, during periods of high water, was carried over the banks of the river into the oyster fields on each side, the co-operation of the Secretary of War of the United States was sought, and a stop was put to this injurious practice.

The assistance of the United States Coast and Geodetic Survey was secured in the matter of establishing township and range points on our coast in order that our oyster bedding grounds, as surveyed, might be connected up with these well established points. This service has been of great value to the commission.

2260 As an excess of fresh water is fatal to oyster life, we sent our attorney, Mr. John Dymond, Jr., to St. Louis, to appear before the Mississippi River Commission in June, 1903, in order that the value of the oyster interests protected by our levee system might be laid before that body and fully explained. The result of Mr. Dymond's visit was an increased allotment of twenty thousand dollars ($20,000.00) in two years for the levees below the city of New Orleans, which will prove of incalculable benefit to the oyster growers of that section, where, by the high water of 1903, over one million dollars ($1,000,000.00) worth of oysters were killed in a period of ten days.

Your commission appreciates the importance of the litigation now pending in the Supreme Court of the United States between the States of Louisiana and Mississippi as to our State's boundary in the waters of the parish of St. Bernard. The area in dispute has a value of between five million and ten million dollars. We have been offered the sum of two hundred thousand dollars ($200,000.00) per annum rental for the exclusive use of the oyster waters there. The area undoubtedly belongs to Louisiana and we have been rendering all the assistance we can to the State's attorneys to win the case.

In connection with the matter of boundaries and in obedience to the provisions of the oyster law, the commission had devised and adopted a set of rules for the purpose of settling boundary disputes between the lessees of oyster bedding grounds in the State.

We cheerfully endorse the recommendation presented by Mr. John Dymond, Jr., which forms a part of this report. Any implement or labor-saving device should be permitted on a man's own oyster farm. In water too deep and too exposed to be fished by hand-tongs, other means should be permitted to make these oysters available to man. There need be no fear of the law being violated. This commission will take care of and prevent that. That is its business.

It has been the common understanding of students of the oyster industry that in the deep and exposed waters of our State there existed many undiscovered acres of natural oyster reefs, more particularly in the gulf of Mexico. In some instances parties are known

to have trailed a rope over the stern of their boats to which a
61 piece of iron chain would be attached, and as the boat sailed
along the chain would show that the boat was passing over
ster shells. It is known also, more especially on the east bank of
e Mississippi river, when a crevasse occurs and the oysters are
lled by an excess of fresh water, the shells of the dead oysters are
on covered by a new set of young oyster spat. So much is this
e case that it is the common belief among the oyster fishermen
at these young oysters are reproduced or brought into being by the
esh water, and they laugh at the idea that oysters lay eggs and are
different sexes, contending that the fresh water is a spontaneous
ency of oyster life. As a matter of fact, the true explanation of
is physiological phenomena is found in the existence of oysters in
e deep water where the excess of fresh water does not reach. The
ore favorable surroundings produced by the fresh water on these
ep water reefs stimulate the reproductive or genital organs of
ese oysters and the increased quantity of oyster spat thrown off
ttles on the shells of the dead oysters and the reefs are replenished
d reëstablished.

These oysters are in water too deep and exposed to be fished by
e only means of fishing allowed under the present law, namely
and tongs. The commission, however, was authorized by the
ster law to procure and experiment with the more modern and im-
roved implements necessary for deep water fishing and purchased
scraper, or what is commonly but erroneously, called a dredge. A
icture of the implement will be found in Mr. Dymond's article,
ade a part of this report. This scraper was placed aboard the
atrol schooner Majestic, which was sent to the west Gulf coast, off
e parishes of Iberia and Vermillion, and a committee from the
ommission, composed of Messrs. James M. Breaux, N. H. Nunez,
nd the chief inspector, carried on the investigation during the
nonth of April. These gentlemen report that new o-ster reefs,
ever before known, were found to exist, that thousands of acres of
atural reefs extend along the coast, and that these oysters are at
resent perfectly useless and doing no one any good, because under
e present law they can not be fished with the only legal imple-
ment we have, viz., hand tongs. It is the opinion of the com-
262 mission that these oyster reefs should be opened to commerce,
that it is a great source of wealth for our people that at present
es idle, and it recommends that the use of modern oyster
rapers should be permitted, so that these oysters in deep and ex-
osed waters could be fished and made available under proper con-
ol of the commission.

Another of the illogical restrictions of our present oyster law is
e limitation to twenty acres as being the maximum amount of
arren water bottom that any one person, firm or corporation may
ase for the purpose of cultivation. In any other locality, and in
ny other industry, the residents of the locality and the citizens of
e State would hail with gratification and delight the development

or bringing into cultivation a large tract of unreclaimed and barren lands.

We have more territory available for oyster production than is now used in the whole State in any one agricultural crop, either cotton, sugar cane or rice, and yet we have less than 6,000 acres, less than one-tenth of one per cent. of the total area, under lease. Twenty years of experience has proven conclusively that, on the basis of maximum units of three, ten or twenty acre oyster farms, no development will result, and it would appear to the commission from the studies it has made as to this limitation, that it has been repeated in the previous oyster laws for the purpose of preventing any oyster development, with the result that the State is deprived of her just revenues from her large holdings of barren oyster bottom. It is true that the excuse has been given that such legislation was enacted for the purpose of preventing the formation of an oyster trust. Experience shows that trusts never control the raw product, and consequently we have no cotton trust producing cotton. We have no sugar trust producing sugar. We have no rice trust producing rice. Where a trust is formed, when it is formed, it is for the purpose of handling the crop produced by some one else, and no restriction on acreage will have any effect upon the handling of the product, except as it may absolutely prevent the raw material from coming into existence and being.

The practical result of this, therefore, is that the fear of
2263 *of* an oyster trust has heretofore paralyzed any possible development of the oyster industry. The fear is unquestionably and absolutely unfounded. If we should judge by the experience of the other States where no limitation is placed upon the acreage that may be leased, we find that in the State of Connecticut, for instance, the oyster farmer, with three acres successfully does business along with the oyster farming company controlling over 10,000 acres, and in no State where extensive areas are subject to leases, has the complaint arisen that an oyster trust has been formed. Let us for a moment look at the opposite side of the picture, and see whether those who cry "Trust" are justified in their cry, or whether it is not due to some other cause that they make these pretensions. Carried on as this industry is today, the oyster fisherman gathers his crop from the natural reefs for which he pays nothing, other than the small tax exacted by the State, and the expense of going to the reef and gathering his product. He does not fear a trust, but he fears that if there be any considerable development in the oyster industry he may lose by increased competition the oyster market which he has all along regarded as his own. The commission feels that the operation of the law, as it stands today, practically stifles and prevents any development of the industry, or any increased competition which would naturally come as a result of that development and be of benefit to all.

We have as a result of our studies of the industry, positive knowledge that people desiring to raise oysters on an intelligent basis and

nodern means and appliances are prevented from doing so, ne State is losing the revenue it should justly receive. This is sult of the unfounded fear and prejudice that has previously d, and the commission feels that it is its duty to lay the facts the legislature, so that these restrictions may be removed.

ts control of the oyster industry, and its patrol of the Gulf vaters, the commission has found itself seriously embarrassed want of sufficient and suitable patrol boats. Its deputy in- rs were required to furnish their own boats, where they could, as the funds of the commission did not permit it to purchase more than its schooner and gasoline launch. The boats fur- nished by the deputy inspectors were not well suited to the because they are required to move quickly to overtake a vio- of the oyster law and in their tours of inspection they are re- l to travel long distances. What is needed is a number of nation sail and gasoline boats, suitable sail boats, with ary gasoline engines, and these boats should be the property commission.

atrol boat will be required constantly on the boundary line en the States of Louisiana and Mississippi and our patrol ner is now used for this purpose. The commission should have er large-size gasoline boat with auxiliary sails, for the use of ef inspector, and this vessel should be of a size and character would permit her to navigate the open waters of the Gulf. additions to our oyster fleet are absolutely necessary, yet the ission has not the funds to procure them.

re is, however, in the State treasury, lying idle, the sum of .71, collected by the State under the former oyster laws, and um could be used for the purpose of acquiring the necessary s. The commission, therefore, urgently recommends that and sts the legislature to appropriate this fund to be disbursed by mmission, for the purchase of additional patrol boats, the dis- ment to be with the advice and approval of the governor of ate.

reproduce the report made to us by our chief inspector, con- g recommendations, the report of Mr. J. B. Baylor of Virginia, ne study of the oyster industry as prepared by our attorney, ning recommendations, all of which, with the result of our we have embodied in an oyster bill, which we respectfully t for consideration by the legislature, and earnestly urge its ge, feeling that we will, with intelligent and conservative legis- be soon depositing in the State treasury funds in quantities dreamed of.

Respectfully submitted,

JAMES M. BREAUX.
N. H. NUNEZ.
BEN. MICHEL.
F. P. PARRA.
THOS. SHANNON, JR.

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2265 Report of Chief Inspector.

To the honorable Oyster Commission of Louisiana.

GENTLEMEN: In accordance with your instructions, I have the honor to submit my report as your chief inspector from the time of my appointment August 1902 to date, together with such recommendations as my experience suggests.

The earliest white settlers in Louisiana found oysters growing naturally on natural reefs, and from the first settlement these were gathered by those persons living in the vicinity of the reefs, and used for local consumption.

Gradually these persons, in answer to the demands of the people who lived too far from the reefs to personally fish the oysters, began to bring up the bayous and rivers in their boats these oysters, and to sell them, in small quantities, to the people living along the banks of these streams for immediate use.

As the city of New Orleans increased in size, population and wealth, it became the principal market for this trade and absorbed, by far, the greater portion of the oysters gathered and fished in the State.

The methods of fishing and culling were of the most crude and wasteful character, and as the demands grew larger, and more and more people engaged in the business, of filling the demand, it was soon found that the reefs to which the fishermen resorted, were one by one being exterminated and that the fishermen had to go further and work harder, and consume more time in gathering the same quantity of oysters.

This created dissatisfaction and engendered discussion. It was the consensus of opinion that the whole trouble was caused by the fishing and taking of oysters during the spawning season and that if this could be forbidden and prevented, that all the reefs would be restored to their pristine productiveness.

2266 Accordingly, for the first time in the history of the State the legislature was appealed to and in 1870 it passed act No. 18 of 1870, which made a closed season from April 1st to September 15th, and provided penalties for the taking or fishing oysters during this time.

In 1871 by act No. 91 of that year, this closed season was made from May 1st to September 15th.

So far as I am informed these acts were "more honored in the breach than in the observance," and both became practically "dead letters," and the depletion and destruction of the reefs went on rapidly.

The fishermen who resided in the parish of Plaquemines were those who supplied the demand for the New Orleans market. About this time, also, it was found that the oysters could be opened or "shucked" and being placed in wooden buckets with lumps of ice, renewed from time to time in transit, could be shipped by express

interior points and sold at a large profit, and this business was arried on in that city, the oysters therefor being supplied by the Plaquemines fishermen.

These two demands under the destructive system of fishing, soon xterminated the supply of oysters in that parish, and its fishermen ound that they could go into the parishes of Jefferson, Lafourche nd Terrebonne and gather the oysters from little used reefs, deposit hem on beds in Plaquemines convenient to the market, where they ould grow and thrive and in due time take them up and supply he New Orleans market demand for local consumption and for hipment to the interior.

The natural reefs of Jefferson parish, were, under this system, oon depleted and destroyed. The Plaquemines men then went urther west to the reefs of Lafourche and Terrebonne and the oyster nen of these two parishes soon found that the reefs which had eretofore abundantly supplied their needs for their limited local lemands were being depleted and destroyed.

An outcry arose. The fishermen in each parish regarded the ysters in each particular parish as the exclusive property of the nhabitants of that parish and they looked on the fishermen of other parishes, and particularly those from Plaquemines who 2067 were supplying the New Orleans market as strangers, invaders and robbers.

So in 1886, the legislature was again applied to for relief and act No. 106 of that year was passed.

Its salient provisions were to recognize the practice of gathering ysters from the natural reefs and bedding them for future use, to rovide that not more than *three* (3) *acres* could be taken by any one erson, firm or corporation for this purpose; to provide that no one ould fish oysters in any parish without having first obtained a liense from the police jury of that parish for the privilege; imposing icenses and taxes therefor on the boat and tongsmen, providing that ne-half of the net amount arising from these rents, licenses, and axes should be equally divided between the respective parishes and he State, and placing the oyster industry of each parish within the bsolute control of the police jury of each parish.

This law accomplished little, and in 1892 was superseded by act No. 110 of that year, which made little change beyond increasing he amount of bedding ground which could be leased by any one erson, firm or corporation from three (3) to ten (10) acres.

In 1896 this act was superseded by act No. 121 of that year, and he only material change which I can find in this latter act was to elieve from taxation the oysters bedded on the leased bottoms.

All these laws were loosely administered, their provisions were isregarded, and the laws themselves fell into contempt.

In the meantime, the population of the State increased; an era f prosperity ensued, and the people became better-to-do, more prosperous and more wealthy. The local demands for oysters for local consumption became larger, the interior demands for "shucked oys-

ters" packed in ice tremendously increased, and individuals firms and corporations to carry on this business not only multiplied in New Orleans, but sprang up in Houma and Morgan City, and canneries were established on the Mississippi shore, in New Orleans, Plaquemines parish and elsewhere.

The demand for oysters from these various sources could not be filled; the cry arose that the natural reefs were being destroyed and that further legislation must be had to cure the evil.

2268 The matter was discussed in the legislature during the sessions of 1900. The consensus of opinion was that the previous legislation was hopelessly faulty, but that no one had given that study to the subject which would enable the General Assembly to intelligently take up the matter and formulate the necessary laws.

The sense of the legislature was expressed in house concurrent resolution No. 31, which appears in the records as act No. 159 of 1900, and reads as follows:

"Be it resolved by the house of representatives, the senate concurring, That an oyster commission be formed to be composed of three (3) members of the house of representatives and two (2) members of the senate, to be appointed by the respective presiding officers thereof, who shall examine into the oyster industry of this State, and formulate a bill for its improvement and present the same to the next session of the General Assembly of the State of Louisiana."

There were appointed on this body Senators Dymond and Cage, and Representatives Leopold, Jacobs and Bonvillain.

These gentlemen visited the various oyster parishes, and oyster waters of the State, sought and obtained the views of numerous persons interested in this industry and investigated and searched the statistics, reports and literature throwing light on the subject matter.

They were of unanimous opinion that the existing laws were radically wrong, and inefficient, and that the natural reefs were being rapidly depleted and destroyed. They also agreed that the control should be taken from the respective police juries and confided to a State commission and that some legislation should be enacted which would increase the amount of oysters produced in the State. But as to the measures necessary to produce this effect the members widely differed and their differences are set forth in the majority and minority reports of the General Assembly. These differences were radical. The minority held that the proper protection of the natural reefs was a practical impossibility and that the only way in which the oyster output of the State could be increased, and a revenue provided for the State was to allow the barren grounds to be rented in large quantities to those who had the inclina-

2269 tion and capital to take and work them.

The majority took the view that if these barren bottoms were leased in large quantities, the supply of oysters would be so greatly augmented, and the quality so improved that these cultivated oysters would supply the whole demand, and that those persons who fish

ers on the natural reefs could not compete and would be driven
of the business. They thought that the enormous revenues which
ld, under this system accrue to the State, would not warrant or
ify the injury which they thought would be caused to the natural-
fishermen.
he view of the majority prevailed, and the law enacted, act No.
of 1902, limited the area which could be leased by any one indi-
ual, firm or corporation to twenty acres.
he act of 1902 being the only law that was enforced might be
idered the first oyster law of the State.
hile this law is not all we need to encourage and develop the
stry, its effects have been far reaching in that it has called the
ntion of our people to the possibilities of the industry and has
acted the attention of outsiders as evidenced by inquiries to our
e for information from parties from Chicago, Maryland, and
from the State of Washington.
is unreasonable to expect any development in the oyster indus-
while the State refuses to lease to any one person, firm or cor-
ation more than twenty (20) acres of water bottom. To lease so
ll a tract of land is attractive only to the fisherman who owns
boat and fishes his own oysters. The leases now existing show
the fisherman does not care to avail himself of even this limit.
that his traditions or his habits teach him is to have a small
of bedding ground where he can plant the oyster he takes from
natural reefs. Three or four acres would be ample for this pur-
, so the present law does not meet the requirements of any class.
ompels the fisherman to take ten acres, which is more than the
rage of them want, and refuses to lease in sufficiently large quan-
s to be an inducement to capital to invest.
here is a reluctance on the part of the fishermen to see the oyster
oms of the State leased in large tracts, as they fear a trust might
be formed and that lands would be taken in such quantities
by big concerns as to shut out the small men, but as long as
the State holds the ownership of her lands and leases them,
is impossible. Again: We know that trusts never strive to pro-
e the raw material, but satisfy themselves with controlling and
ng it; so if we are ever to have an oyster trust we will not see
wning and working the lands but controlling the product, and if
is to come it will come whether Louisiana leases her lands in
e or small tracts, or whether she leases them at all.
ur State is rich in her soils but her agriculture was not de-
ped by her plowmen, nor were her sugar-houses, rice mills and
on gins erected by the day laborer. She is rich in her forests,
it was not the axman who developed her lumber industry. She
ch also in her oyster lands but it is not to the fisherman that
must look to develop her oyster industry.
e must enact laws that will enable every man so inclined to
st according to his means, his money, his energy and his abili-
The fishermen will soon learn that the big operator does not

interfere with him any more than the big sugar and cotton planter does with his less fortunate neighbor who works his little farm.

No man without a boat or the means of buying one, and about $2,000.00 capital could ever be the lessee of oyster lands. Grant that every one of these fishermen who own boats could be induced to lease twenty acres of land it would amount to thirty thousand acres. According to Dr. Stubbs the State owns 6,000,000 acres of coast waters running out into the Gulf to a depth of 20 feet, this would leave 5,970,000 acres on the State's hands. My duties have taken me all over the coast where oysters are fished and I have become as familiar with conditions there as it is possible in a two years' experience over so vast a territory, though I do not profess to know it all.

In the discharge of my duties I am brought in close contact with our fishermen, and I find them as a class to be law-abiding, generous, hospitable and hard workers while they are at it.

Most of them favor just laws to regulate the fishing and protection of the reefs. The feature of our present law most objectionable to the fishermen is the tongsman's license. He regards this as
2271 as a tax on his labor and it is hard to reason with him or persuade him to the contrary.

Our coast parishes are St. Bernard, Orleans, Plaquemines, Jefferson, Lafourche, Terrebonne, St. Mary, Iberia, Vermilion, and Cameron.

The principal oyster reefs of the State are in the parishes of St. Bernard, Plaquemines, Lafourche and Terrebonne.

Formerly some of the best reefs in the State were in Jefferson parish, but from some cause these reefs have become unproductive. Some claim that the waters of Grand lake, where these reefs principally are, have become too dense or salty to produce oysters. Others claim that the reefs were so completely cleaned of oysters by the fishermen that there were none left to produce spawn. Of these two theories I am not prepared to judge, but it is a fact that these once magnificent reefs show no disposition to become productive again.

West of the Atchafalaya river there is no oyster fishing except around Southwest pass and Marsh island in the parish of Iberia. From the fact that that coast is well watered by rivers and bayous bringing down fresh water and creating the conditions which produce oyster life I am led to believe that there are good reefs along that coast which are unknown to our fishermen. I regret that I have been able to devote so little time to investigations there, but circumstances have prevented.

It may be well to state right here that my principal drawback in the discharge of my duties has been the want of a suitable boat.

The only boats owned by the commission are the Majestic, a fine schooner, and the Nita, a small gasoline launch used as a tender to the schooner. These boats have more than they can do thoroughly to patrol the vast territory of the parish of St. Bernard and could not be taken from there to be used in general tours of inspection and

investigation. The other oyster districts are patrolled by deputy inspectors who are required to furnish their own boats. I could not use these for my purposes without leaving those districts unguarded.

It is absolutely necessary, in my opinion, that the commis-
2272 sion furnish their chief inspector with a suitable boat, and if the revenue of the commission will not permit of this then the legislature should be asked to assist you by an appropriation of the $8,958.71 now to the credit of the "oyster fund" in the State treasury.

I have watched the process of dredging oysters in what is called the "neutral grounds" with keen interest, and I am induced to the conclusion that there is very little in the cry that dredges destroy the reefs. *Excessive* dredging and improper culling will destroy a reef, but this can be accomplished with hand tongs, and while I do now know it of my own knowledge, it is claimed that reefs in this State have been destroyed by tongs.

When the question of whether or not the dredging of oysters should be permitted in this State came up, I had never seen an oyster dredge, but I had seen dredge boats. I saw them dredging canals and unloading coal barges, and thinking that an oyster dredge was built on the same order my horror of them was so great I thought the fisherman would be justified in taking his gun and driving them out of the State. But as you gentlemen know, the oyster dredge so called, is not a dredge at all. It is misnamed. It is *a drag*. If you take a common garden rake, attach a wire net behind it to catch the trash and then hold the handle perpendicular and in this position move it along the ground you have a very good representation of the working of an oyster dredge. Some contend that the dredge passes over the oysters and forces them into the mud where they die. But the dredge or drag is intended to pass *under* the oysters and gather them up and it *does* the work it is intended to do. Compare the process of dredging as done by the Mississippi fishermen and the tonging as done by our fishermen and let us see which is the most destructive process.

When dredging the boat is under sail and in motion. As the oysters are dumped on deck there is a force at work culling the oysters, depositing the good ones aboard and throwing back the shells and small oysters. This of necessity scatters the culls over practically the same area from which they were taken with
2273 the exception that when the boat passes beyond the reef some culls are thrown beyond and consequently the tendency is to constantly extend the area of the reef.

When fishing with tongs the fisherman casts his anchor and ties his boat up short. He then fishes such oysters as are within the length of his boat, when he lets out his cable until another length of his boat has been gained, and so on until he has fished his decks full. He then proceeds to cull and all the oysters he has gathered in one or more lengths of his cable he culls without moving his boat an inch. These culls go overboard in two piles on each side

of his boat and he has smothered more young oysters one with the other than a dredge would have buried in fishing ten times the amount.

It is useless to say that the inspectors should put a stop to such practices. The inspector can only be on one reef at a time and has under his eye the boats fishing on that reef. While he may force them to cull properly for the time being, hundreds of other boats are doing as they please in other parts of his district. Nor can the commission ever assign an inspector to each reef for then the expense of maintaining such a police force would be enormous and our oyster industry would become a burden instead of a profit to the State.

Human nature is such that men take but little interest in what does not belong to them and our fishermen are not different from others when they fail to spend their present time and cut off their present profit, that a natural reef may be in better condition in the future and perhaps for the benefit of some one other than themselves. Every one reasons, "The other fellow is not doing it, and why should I?"

We are therefore forced to the conclusion that the State can never successfully protect her natural reefs and build up an industry thereon. Strict laws and good officers may retard the process of depletion but they cannot prevent it.

In conclusion, and with your permission, I would make the following recommendations:

1st. That you recommend to the legislature a law that
2274 would prohibit dredging on the natural reefs in shallow and unexposed waters, because the present day fisherman wants it so and under liberal leasing of lands he will soon be the principal patron of the natural reefs.

2nd. That lands be leased with some limit named, but with such a liberal limit as to let in any-size firms or corporations as might desire to invest, and at the same time throwing such safeguards around the leases as to make capital secure. Allow any and all appliances and implements to be used in private planting grounds in the cultivation and fishing of oysters, as you can safely trust the lessee not to do anything that would injure what is his own. And further because he must be allowed this privilege if he is to compete successfully with his rivals in the open markets. He must be allowed to use his own judgment and to control his oyster farm as absolutely as if he were renting land from the State on which to plant cotton or cane.

3rd. Add the month of September to our open season because Texas on one side of us and Mississippi on the other both open their seasons before we do and our dealers claim they are thereby placed at a disadvantage.

4th. Abolish the tongman's license and increase the tax on oysters from 2 cents to 3 cents, because, first, we have a great many men who work in the fields during sugar grinding or at other jobs and

h oysters the latter part of the season. It is unequal to charge
em all alike while the tax falls in proportion to the length of time
man fishes; second, captains are often hampered in making up
eir crews because otherwise available men have no licenses; third,
large number of green boys are deterred from taking to the cull-
g because the small wages they earn at first do not justify them
taking out licenses, and thus the making of a good fisherman is
st; fourth, the license is hard to collect while the tax on the oysters
hich will produce the same result is easy to collect; and finally,
ermit me to say that in my opinion *that* a liberal leasing law, with
beral dredging laws, permitting dredging on the natural reefs in
water over fourteen feet in depth or in exposed waters and in
75 dredging in any depth on leased bottoms, would soon result
in an oyster industry in this State greater than that in any
tate in the Union, indeed greater than any other in the world. I
lly believe that under such laws, millions would be invested in
e industry in this State, and I am satisfied that the revenue that
ould accrue to the State would be measured in hundreds of dollars
nd, eventually, in millions.

Respectfully submitted.

HARRY CAGE,
Chief Inspector.

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2076 The honorable Oyster Commission of Louisiana:

By formal resolution, your commission has requested me to pre-
pare a written report, and in this connection to recommend such
changes in the present oyster law of Louisiana as would seem to me
to encourage the development of the oyster industry of your State.

Your present oyster laws creating the Oyster Commission of Louisi-
ana in many respects are admirable. As your laws stand today you
are in advance of many of the oyster States.

About twelve years ago, the writer made a complete survey of the
natural oyster reefs of the State of Virginia. This survey for the
first time clearly defined the natural oyster reefs, and an oyster
planter's title to his oyster beds in that State cannot now be ques-
tioned.

In connection with this survey, the oyster question became promi-
nently before the people of Virginia.

With other speakers and writers, the writer, as a citizen of Vir-
ginia, took an active part in encouraging oyster culture in Vir-
ginia.

It will be instructive to note what has been the effect of this
agitation on the oyster industry of Virginia. In 1891, Virginia
realized $2,524,348.00 from the sale of 6,074,025 bushels of oysters.
An insignificant sum was obtained from planted oysters in Virginia
at that time. This product came from the natural oyster reefs. In
1901, Virginia realized $2,923,357.00 from the sale of 7,885,357

bushels. Of this product 3,076,525 bushels were obtained from private planted oyster beds.

In 1891 Maryland was far in advance of Virginia and of every State, in the production and sale of oysters. She can no longer claim this honor, as to production, having produced only 5,085,561 bushels of oysters in 1900, valued at $3,031,518.00. Of this amount $2,732,274 was realized from natural reef oysters, and only $299,244 from planted oysters. (Report United States Commissioner of Fish and Fisheries, 1903, pages 495 and 518.)

2277 The State of Virginia, after supporting an expensive oyster navy of three steamers and two sailing vessels, now receives a net annual revenue of fifty thousand dollars from her oystering territory, where she formerly had an annual deficiency.

Yearly the area of native oyster grounds grows less in Maryland and Virginia, as the result of this over-working of the reefs. The splendid increase in the production of oysters in Virginia, as compared with the production in Maryland, is the direct result of the agitation of the oyster question in Virginia, and the encouragement of oyster culture in that State.

What has been accomplished in oyster culture in Virginia is strikingly exemplified in Elizabeth City county, one of the smallest oyster counties in Virginia.

Before oyster culture was started in this county, only a few hundred bushels of oysters were sold annually, where there — now sold annually 350,000 bushels of oysters.

Messrs. Darling & Son, oyster planters of Hampton, Elizabeth City county Virginia, now give profitable employment to large numbers of people in working the profit of what was at one time a *barren* oyster area.

Louisiana has a coast line following the indentations of the bays and of over 1200 miles. According to figures carefully compiled by so eminent an authority as Dr. Wm. C. Stubbs, your State has *seven* thousand square miles of tidal bottoms, over *four millions* of acres, not covered by more than twenty or twenty-five feet of water. This is far in excess of the area of the oyster bottoms claimed by either Virginia or Maryland.

It is a striking fact that most of the tidal bottoms of the whole coast of Louisiana, including the bays, sounds, inlets and bayous, is composed of a fine, light black sediment, known to the naturalist as *oyster mud*.

Your tidal bottoms afford opportunities for the cultivation 2278 of the oyster almost unparallelled in other countries.

You have not the destructive shifting sands, far too common in the bottoms of Chesapeake bay and its tributaries.

Unquestionably a very large percentage of your soft mud bottoms which now smother both shell and oyster, can be converted into prolific oyster grounds by the application of sufficient sand and shells, wherever these bottoms can be adequately protected from an

excess of fresh water from the Mississippi, through its numerous crevasses.

A beneficent Providence has so ordered things, in this great valley of the Mississippi and its tributaries, that there seems to be a complete harmony of interests amongst all the industries which center here.

The same locks and dams which are necessary to protect the valuable paddy rice fields, all along your coast, from the salt water, are also necessary to protect the valuable oyster beds, in your numerous bays and bayous, from destructive fresh water floods.

The same levees which protect the lands adjacent to the Mississippi—an agricultural region which can only be compared to the valleys of the Nile and the Ganges and other great rivers—unquestionably tend to improve the navigation of this great highway of commerce.

The great reservoirs which are being built at the headwaters of the Missouri and Arkansas rivers to retain the destructive floods produced by the rapidly melting snow, to be used in the season for converting the marvelously rich arid land of the West into productive agricultural regions, unquestionably tend to diminish the force of the floods, sometimes so destructive to both the agricultural and oyster interests of the State of Louisiana.

The great national forest preserves it is proposed to establish in the Appalachian mountains at the headwaters of the Ohio, Tennessee and Cumberland will unquestionably tend to protect from destructive floods the rich valleys of all the rivers which rise in these mountains, and at the same time preserve, under scientific government control, a valuable timber region, whose preservation means so much to so many States. Many of the great floods of the
2279 Mississippi came from the Ohio, largely the result of the clearing of timber on the precipitous mountain sides at the headwaters of the Ohio and its tributaries.

The writer has had frequent occasion to observe the terrific force of the waters on the sides of these denuded mountains.

He has known your coast for over a quarter of a century, as a Government surveyor, and he is convinced your oyster interests can never be highly developed until your bays and inlets are *effectively protected* from the destructive crevasses of the Mississippi river.

Cubits gap has entirely destroyed the once valuable oyster reefs of Bay Rondo.

The crevasse at the Jump has rendered Grand pass and a large percentage of the extensive bottoms of Grand pass and West bay useless for oyster culture.

Pass à Loutre crevasse has not only destroyed the once very extensive oyster reefs of Garden Island bay, but the sediment from it seems to be a constant menace to the safety of navigation at the mouth of the jetty at South pass, upon which the ocean commerce of New Orleans to-day depends.

On the contrary, in some of the bays and inlets of Cameron parish

which have been protected by the dams and locks of the rice planters you now have oyster beds where oyster beds were unknown before.

What has already been accomplished in oyster culture, in the bays and bayous of your State, where these bays and bayous are effectively protected from crevasses, is best illustrated in Whale bay and Grand bayou, just west of the South pass of the Mississippi river.

Messrs. McLaughlin & Lobrano are said to be the pioneers in the culture of oysters from the shell in Louisiana.

These gentlemen who own about twenty-five acres of planted ground in Whale bay, have sold daily during the past season over one hundred barrels of oysters. They sell these oysters on their shore for $1.30 per barrel to the canning factories. One man
2280 gathers and prepares for market ten barrels of oysters a day, gathering them in about two feet of water. This firm will sell, during the present oyster season *eight thousand* barrels of oysters from about twenty-five acres of oyster ground planted from shells, an annual yield of over four hundred dollars. ($400.00) an acre. These oysters are unsurpassed in quality and size and are marketable in about two years from the time the shells are deposited in the water.

It is only a question of time when such valuable tidal lands, millions of acres in extent, will be protected and utilized, if every crevasse has to be closed, and tons of sand and shells have to be deposited on your soft mud bottoms to make them productive oyster grounds.

In this age, a territory which, with so little labor, will yield annually four hundred dollars an acre, will not be permitted to remain idle. Your warm waters are marvelously rich in microscopic plants—the products of a continent—the very microscopic plants upon which the oyster feeds. Here frosts are almost unknown, and the oyster under scientific culture flourishes everywhere even above low water.

As requested, by formal resolution of your honorable commission, the writer would respectfully recommend some changes in your present oyster law. He has made a study of the oyster laws and oyster interests of the different oyster States, and is convinced that these changes will tend to improve your oyster industry, and the condition of a majority of those engaged in it will in the end be benefitted. You should change your 20-acre limit. The maximum acreage which can now be rented to one person for bedding or cultivating oysters is twenty acres. In Virginia, the limit of bottoms which may be rented to one person is two hundred and fifty acres. This does not apply to Chesapeake bay where there is no limit to the acreage.

I find in your State, under present laws, that only on a *narrow strip* of territory, along the shores of many of your bays and bayous are the bottoms hard enough to be used, in their present condition, to plant shells and cultivate the oyster.

Your law reads:

81 "All leased bedding ground must be square where the water surface will permit of such shape."

If this law were enforced, an oyster planter could utilize only a all fraction of his 20-acre lease, in many of your bays and bayous. om my observation in your State, I am convinced that this law s to be violated, by leasing ground in other people's names, in der to make oyster culture profitable.

This must tend to discourage capital.

In large open bays, such as Chandeleur sound, oyster culture can ver be made profitable, except in large areas, and by the use of bor-saving appliances.

There are vast areas of soft mud bottoms, in your State, which ay be made just as productive in oysters as is the ground of essrs. McLaughlin & Lobrano and others, but not until vast quanies of sand and shells are deposited upon them, and they are fectively protected by locks and dams from fresh water floods, and is fresh water is *regulated* and utilized either in fattening the oyster in protecting the beds from an excess of salt water after a severe orther." This can never be successfully done with a 20-acre nit.

In leasing your lands, I would recommend the adoption of some the features of the New York law.

Your natural oyster reefs are scattered, and not nearly in as well fined and in as large areas as are those of Chesapeake bay and its butaries.

Your commission, in my opinion, has been wisely authorized by w to determine in each case what is a *natural oyster reef*, and may t be rented. In this you follow the New York law.

Your commission will find that, in defining your natural oyster efs, you must give and take—you cannot define your natural ster reefs and not let them contain some barren area. You cannot fine your barren oyster rentable area and not let it contain some tural oyster reefs. It must be a question of honorable compro-se, with due regard to the rights of the "fisherman."

82 Your natural oyster reefs are so scattered, and in such *shoal* water that a complete survey of them would, indeed, be a *costly* undertaking. Fortunately, under our existing laws, ere is no necessity for such a complete survey of the natural ster reefs as was made in Virginia.

I would recommend that every survey of a planter's oyster ounds be *connected* with the adjacent *section corners*, and the same ctangular system of record, giving the township and ranges, be ed as is now used in your land surveys.

Along your whole coast line, points should be accurately deterned by the same systems of triangulation as has been used in the rvey of the coast.

This work should be gradually done wherever it is most needed. gnals should be built and the points should be securely marked. hen the latitude and longitude of these points are known, the sec-

tion corners, on the even minutes of latitude and longitude, can be correctly located from them. You will have endless trouble, in connection with your oyster surveys and oyster bedding-ground titles, unless you do adopt and execute some such system of surveys.

It is impossible to accurately trace out the section lines and establish the section corners, across the impassable bogs and "floating prairies," which skirt your entire coast line by any other system than by systems of triangulation. The corners of your rice farms and oyster planted beds can then be accurately restored in every dispute as to boundary lines.

The New York law reads:

"Before a lease is made, notice thereof must be posted for at least three weeks in a conspicuous place, in the office of the commission, in the office of the town clerk, and in the postoffice nearest the land applied for. The letting shall be at public auction for not less than twenty-five cents an acre annually, and for not more than fifteen years."

Your oyster grounds are radically different from those of New York. It will require much more labor and capital to convert the soft mud bottoms of your coast into productive oyster bed-
2283 ding areas. They have to be protected from the floods of fresh water by expensive levees, and vast quantities of shells and sand will have to be deposited in order to utilize them.

It seems to me leases should be for *twenty-five* years, and at the end of twenty-five years the lessee should be paid for the cost of his improvements if he has to vacate his land in favor of some other person. Thus only can you induce capitalists to utilize your soft oyster bottoms.

No one knows the ultimate value of the vast oyster and tidal bottoms of your State. They are the property of the people of the *whole State.* It would be folly for the State to sell them absolutely. Wise public policy demands that the State should rent her oyster ground to the *very best* advantage.

The New York law is a good one; but here your leases should be made for twenty-five years, and your oyster planters, present and prospective, should be paid for any expensive improvements made on their bottoms, in re-renting to the highest bidder. At the end of their lease, in every case, they should have the refusal of their ground.

Where there is no maximum rental, your oyster land will be more rapidly taken up. This has been strikingly exemplified in New York. On her limited coast and oyster area she sold, in 1901, $1,972,540 worth of oysters. In the same year from the natural oyster reefs, to which the public resorted, only $20,104 worth of oysters were sold. The rest came from rented ground, *rented* to the highest bidders. (Report of the United States Commission of Fish and Fisheries, 1903, page 422.)

Your oyster planters, when they have paid their rentals to the

State, should be perfectly *free* to work their oyster grounds, as their own interest and experience dictate.

By law they should be authorized to use dredges, steam or gasoline, on their private beds, if they so desire.

Your commission should be vested by law with authority to confiscate these dredges and to impose a heavy fine if they are ever used on your natural oyster reefs or at night.

Your planters should be authorized to use the same labor-
2284 saving appliances as their competitors are to-day using on the Atlantic coast. In Connecticut, on 64,907 acres of rented grounds, one hundred and two steam and gasoline dredges are in use. Some of these dredges take up 3500 bushels of oysters a day, in twenty-five feet of water.

Oyster culture, in fifteen or twenty feet of water, along your coast, can never succeed, unless your planters are authorized to use these dredges and have large areas.

There should be no "closed season" for the oyster planter. He should have the right to ship, in and out of the State, the products of his *own oyster farm*, whenever he so desires.

From my observations, in your State, I find there is much just ground for friction between the buyer and the seller, owing to the sale of oysters in bags, etc.

"At no place on the Louisiana coast is a standard measure used for handling oysters." (Report United States Commission of Fish and Fisheries, 1899, page 1477.)

I would strongly recommend the adoption of the Virginia law. It reads:

"It shall not be lawful, at any time, for any person to buy or sell oysters in this State, in the shell, by any other than the metallic measure adopted by the State, and *bearing* the seal of the State. These metallic tubs must be filled with a slight rise above the top. *Any person* violating this law shall be *fined* not less than $10.00 nor more than $100.00 for each offense."

These metallic tubs should be sold by your commission at the contract price, plus the cost of delivery, with a small charge for the official seal.

When oysters are sold out of the shell, the Virginia law reads: "All oysters sold out of the shell shall be by uniform wine measure. Any person violating this law shall be fined not less than $5.00 and not more than $50.00 for each offense."

Some of your planters find that it costs as much to bag their oysters for sale, as it does to cull them.

2285 It is interesting to note what is the annual yield of oysters in Louisiana, from its extensive oyster areas.

Your 2-cent barrel tax, on every barrel of oysters gathered in the State, should be a fairly correct measure of your present annual yield of oysters.

From these figures, you produced annually 1,617,044 bushels of oysters to September 1st, 1903.

The United States Commission of Fish and Fisheries have furnished me with no later data than 1897. You then sold annually only 959,190 bushels of oysters, valued at $432,668, the largest sale of any State south of Virginia. Your oyster industry is, indeed, in its infancy, but it is showing a gratifying increase since the establishment of your commission.

There is every reason why Louisiana should *encourage* oyster culture. The fishermen and oyster men of Louisiana are largely of foreign birth, moving from place to place, according to the productiveness of your natural reefs and fishing grounds. They have little attachment to the places where they camp.

This is not conducive to good citizenship. It is a well recognized fact among all political writers that a common need of good citizenship is that labor have a settled place of abode.

A nomad population can hardly be called a highly civilized one. Only a firmly settled laboring population which desires and expects to pass its life in one spot can be truly happy and produce good citizens.

The best friend of the working man is that State which encourages the working man to help himself and have a fixed home.

The State of Louisiana has a *princely inheritance* in her more than four millions acres of tidal bottoms. It will require *persistent labor, intelligence* and *capital* to properly utilize and develop this area.

Let your State by long leases, encourage your oyster man to have a fixed home near his bedding ground, which he rents from the State.

Your State should also encourage capitalists to engage in
2286 oyster culture, *wherever* large capital is *necessary* to properly develop your vast oyster territory.

You have an unlimited market for your oysters, in the great middle West, which is adjacent to you. The Pacific Coast region is open to you. Their oysters are poor and there is a constant demand for the Atlantic and Gulf Coast oyster. Our oyster does not produce fertile spat in the cold waters of the Pacific.

Chesapeake Bay oysters are shipped to the Pacific in shells, and deposited in the bays of California, Oregon and Washington until ready for use. You should have here a good market for your oysters shipped in the shell.

There is a good trade in oysters, from New York and Long Island sound, to Europe via New York city. Louisiana can build up a trade here with your great lines of steamers direct to Europe with their refrigerator plants.

The Superintendent of the United States Coast and Geodetic Survey has authorized the writer to determine, by triangulation, a series of points along your coast, to be used in strengthening your oyster and rice land surveys, and in noting changes in our coast charts.

Signals are being built over these points, and their latitude and longitude are being accurately determined. The points are securely marked, and from these section corners can be correctly located.

This work is being done so far without cost to your State.
Last year a series of points were determined in the marshes, adent to the Mississippi sound, and this year along the bays, east of Mississippi river, near its mouth.
This work should be gradually extended, by State as well as nanal aid, if necessary.
The geographical position of all triangulation stations so far demined will be furnished so soon as the computations can be rised in Washington. The distance of each securely marked trianlation station, in a north and south line and east and west line, om the adjacent section corner, will also be furnished your honorable commission.

87 Tall, substantial observing towers have been built over each of these marked triangulation points.

The State of Louisiana has at present an extremely valuable and mparatively unproductive asset in the ownership of her estimated ster territory of 4,631,152 square acres. It is the property of the ople of the whole State. The highest acre of land in your State s to be taxed to protect your lowlands. Your extensive levee stems will have to be strengthened and enlarged. Your common hool system will demand larger State expenditures, if your State pes to compete with the great manufacturing States. Your highys must be improved, if you would build up the remote sections your State. Large sections of your oyster area can only be utild in one of two ways. Either, under a community of interest, the ate must authorize large sums of money to be spent in oyster lture for the benefit of those of her citizens who live adjacent to em, or else she must rent or sell these barren oyster areas to individuals or companies.

Respectfully yours, J. B. BAYLOR.

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88 The Oyster in Louisiana.

By John Dymond, Jr.,

Attorney Oyster Commission of Louisiana.

The coast line of Louisiana bordering the gulf of Mexico comprises e ten parishes (counties) of Orleans, St. Bernard, Plaquemines, fferson, Lafourche, Terrebonne, St. Mary, Iberia, Vermillion and meron. Their shores are largely indented with bays, lakes and yous, where the tide ebbs and flows daily, mixing the salt water the gulf of Mexico with the fresh waters of the Mississippi river d the bayous and smaller rivers leading therefrom. The area of is water surface, calculated out to a 20-foot depth of water in the lf of Mexico, has been found by Prof. W. C. Stubbs, director of r State experiment stations, to equal seventy-two hundred and enty-six (7226) square miles, or four million, six hundred and irty-one thousand one hundred and fifty-two (4,631,152) square

acres. If, in place of limiting the area to a 20-foot depth of water, we extend it to a seventy-five-foot depth of water in the gulf of Mexico, it would add probably a million more square acres to the above figures, and for the purpose of studying our oyster industry, we could readily do this, as will now be shown. Dr. Stubbs' calculation stopped at a 20-foot depth of water, because he considered that that was the limit of depth in which oysters could be profitably fished and cultivated by means of the extension shafts or tongs, with which he was familiar, as a one-time Virginia oyster planter. We know, however, that oysters in other States, on the Atlantic coast, are found, fished and cultivated in water seventy-five feet deep; so there is no reason why we should not be able to do the same thing in Louisiana; and for the purposes of this article, showing the possibilities of Louisiana's future oyster industry, we may base our ideas and calculations on Louisiana's coast waters containing possible oyster fields equal to nearly six million square acres. When we consider that the whole State of Louisiana contains but twenty-five millions, two hundred and three thousand, two hundred (25,203,200) square acres of land above water, we see what an immense
2289 area these oyster fields cover, being equal to over one-fifth of the total area of the State. In the matter of oyster production, this coast water area is competent to produce, with the prevailing high prices of food stuffs, untold wealth for the people of our State.

However, since the year 1886, it has been the policy of our State, under the guise of developing her oyster industry, through her oyster laws, to have in fact unconsciously and unwittingly retarded its development by ridiculously restricting and limiting the area of barren water bottom that could be leased by her citizens for the purpose of oyster cultivation, so that there are now, to-day, but seven hundred and fifty (750) oyster-bedding-ground-leases in existence, covering an area of five thousand four hundred and ninety-seven, and sixty-two hundredths (5,497.62) square acres, when the area leased from the State should, under intelligent and liberal oyster laws, by now have reached up into the hundreds of thousands. Part of this vast water area, above mentioned is now and has been occupied by what are called natural oyster reefs, where oysters grow wild, unaided by man. There are no accurate data as to the area covered by the natural oyster reefs of Louisiana, as they are scattered all along the Gulf coast, but it is estimated that they will not exceed fifty thousand (50,000) square acres. Returning, therefore, to the foregoing figures, and deducting the leased bottoms and natural oyster reefs from the total area just mentioned, this would leave over five and one half millions acres of barren oyster bottoms, at present unproductive, but which, with the expenditure of money and labor by our citizens in private enterprise, as will be hereinafter shown, could be made to produce millions of barrels of oysters, or millions of dollars of money through the oyster business. The reason this has not been done heretofore is due, as we have just said, to the fact that the State oyster law, shaped in the past by the oys-

ishermen, alone, has been calculated to restrict and retard all elopment in the oyster industry. The fishermen were content et their oysters for nothing from the natural reefs, the only cost g the expense of gathering them, and they wanted to keep every one else out of the oyster business and prevent its development, because they feared they might lose their markets through an over-production.

Property of the State.

he Supreme Court of the United States has repeatedly held that bottoms of the navigable waters of a State are the property of State within which the water bottoms are situated. In the case ames W. McCready *vs.* Commonwealth of Virginia, 94 U. S., p. the court used the following language:

"Each State owns the tide waters and beds of all tide waters in its jurisdiction. Subject to the paramount right of naviga-, fisheries remain under the exclusive control of the State.

"A right of fishery is a property right, and not a mere privi- or immunity of citizenship.

"The citizens of one State are not invested by the Constitution he United States with any interest in the common property of citizens of another State.

"A State can grant to its own citizens the exclusive use of lands ered by water for raising oysters, and may prohibit, under a alty, their use for such purposes by citizens of other States."

he power of a State over these water bottoms is, therefore, abso-, except that the right of navigation, controlled by the United es, must not be impaired; and, as to these lands, each State is a reign. According to the law of nations, this sovereign right of State extends a distance of at least three miles off shore into high seas, and the mouth of a bay, opening into the sea, must ed six miles in width for any part of the bay to be considered a sea, although a State may claim jurisdiction as far out in the for police and other purposes, as she chooses to enforce her ts.

ll of this vast water area, therefore, belongs to Louisiana as a e, just as do her public swamp or high lands, and may be rented ier to her citizens or sold, as she does her other lands. They e an enormous future value. A comparatively small portion of e oyster fields is in dispute, as to ownership, between the States of Louisiana and Mississippi, and a suit to determine this issue has been instituted by *by* the State of Louisiana in the Supreme Court of the United States at Washington. One he large Mississippi oyster canning concerns recently stated to writer its willingness to pay two hundred thousand dollars 0,000.00) per annum net to the State for the exclusive right to oyster product of the disputed area, for such number of years as ht be agreed to. This gives a rough idea of the value of these

water bottoms. Although it is but a small part of Louisiana's total oyster fields, this offer would mean four (4) per cent. interest on a value of five million dollars ($5,000,000.00).

The Duty of the Legislature.

All State property is managed by the legislature. It provides for such management by appropriate laws. To intelligently manage an interest so important as these oyster fields which belong to the State, one should have knowledge of that which one manages, as otherwise the best results will not be obtained. It is, therefore self-evident, if we are to have good oyster laws, that the members of our legislature should be fully informed of our oyster industry. We have ten coast parishes out of a total of fifty-nine parishes. Heretofore it has been the custom of our legislators to leave to the members from the coast parishes the entire formation of our oyster laws. They were not aware of the fact that there were two interests to be considered, namely, that of the State, as well as that of the fishermen. The fishermen erroneously thought that their best interests lay along the line of preventing any development of the oyster industry, while the State's interests would certainly best be subserved by encouraging the development of the industry, because it would enable her to get a revenue from her large holdings of barren oyster bottoms by securing their rental. There heretofore being no objection from the State at large, the members from the coast parishes, not being themselves as well informed as they are to-day, in regard to the oyster industry, were naturally influenced by the desires of the local oyster fishermen. These local oyster fishermen wished to keep the oyster industry for themselves, and prevent new labor and capital from becoming interested therein; and
2292 they therefore dictated oyster laws that have proven themselves to be admirably calculated to prevent any development in the industry. That development which has occurred in the last few years has been due to the utter inability of the oyster law to prevent it, a natural development that has burst through the narrow restrictions and absurd limitations of the law.

As the State owns the natural oyster reefs also, the legislature should know what these natural reefs are, and what they need, so that the annual oyster crop from this source may be maintained and if possible increased, for the benefit of the fishermen who have neither the money nor inclination to cultivate oyster beds for themselves, and for the benefit of the general consuming public.

The State also owns the oyster bedding grounds now leased by it to private parties. The legislature should know the needs of this more progressive class of people so that their interests may be encouraged and protected, because the State gets one dollar ($1.00) a year rental for each acre of oyster bedding grounds, leased for this purpose.

There are, then, in addition to the above, over five and one-half

illion acres of oyster bedding ground now barren and unproductive, hich also belong to the State. If the State could rent this area at ne same rental as the bedding grounds already under lease, the tate's annual revenue from this source alone would amount to more han five million dollars ($5,000,000) per annum, or more than nough to pay the annual expenses of the State government. It is, herefore, the duty of the legislature to see that local labor and local apital are encouraged to take up this industry and rent these barren ottoms, thousands of acres of which could be made profitably pro- uctive on a handsome scale at a very small expense. In one way his is not a remarkable thing. It is not the dream of a visionary. The province of Ontario, Canada, never levies any taxes. It has mmense areas of timber lands and annually makes up its budget, nd sells enough stumpage rights to lumber men to meet the ex- enses of its budget, which makes it unnecessary for the province o levy any taxes.

2293 Natural Oyster Reefs.

The oyster crop of Louisiana for the year ending September 30, 1903, and amounting to four hundred and seventy-two thousand, one hundred and ninety-one (472,191) barrels, or one million, six hundred and seventeen thousand and forty-four (1,617,044) bushels, came almost entirely from our natural oyster reefs, which are the property of the State. It will be remembered that the area of these natural oyster reefs is estimated not to exceed fifty thousand (50,000) square acres, and as they are the source of a delicious food product, it behooves us to know something of their natural history, so that by its knowledge we may profit in our legislation for their benefit and improvement. Let us note, therefore, that the oyster has no power of locomotion, and where he once settles, whether placed by nature or by man, there he stays until he is removed by man. As in other animate life, the oyster is of two sexes, male and female, but with the peculiarity that the same oyster may be one year male and the next year female. The breeding season extends generally from May 1 to September 1, the months without the letter "R" when the oysters are commonly said to be milky. This milk is given off by both the male and female, and under a microscope, the milk of the female will be found to be a fluid composed of innumerable eggs, while the milk of the male is made up of innumerable *spermatoza*. It has been calculated that a single oyster each year lays the enormous number of from forty million (40,000,000) to sixty million (60,000,000) eggs, and the male oyster a similar quantity of spermatoza. The eggs of the female and the spermatoza of the male are brought together and mingled by the tides and currents. In order to develop oyster life, it is necessary for one of the spermatoza to attach itself to an egg. When this happens fertilization and oyster life at once begin. This elemental fact in the natural history of the oyster has been demonstrated by the following

experiment conducted at the Johns Hopkins university at Baltimore, Md.: A well developed male oyster and a well developed female oyster, both in the milky condition, were selected, carefully opened,
2294 and with the gentle pressure of a glass rod over the egg ducts, the milk from each oyster was expressed into separate glasses of sea water, a teaspoonful of the liquid from one glass was then poured into the other glass, and the results heretofore described were observed and followed with a microscope. Each spermatoze selected and attached itself to an egg. The eggs at once began to swell, the transformation was quite rapid, and soon the young oyster *spat*, for they are so called at this period, had formed and developed a few *cilia* or hairs, by means of which they are, for a brief space of time, able to swim about. These oyster *spat* are now in search of some clean, hard surface, where they may stop and affix themselves, and where they may take up their permanent abode, as once *set* they lose all powers of locomotion. They are still microscopic in size and very delicate, for if covered by any silt or sediment in the water, they are at once smothered and die. The process here described goes on annually on the oyster reefs. The most available hard clean surface is generally the shells of other oysters lying in the locality. To these the young oyster *spat* attach themselves, and when these young oysters become adults, the cycle of reproduction begins again. Thus are the natural reefs formed, and we find oysters that have grown on top of oysters until they have formed themselves into large bunches. Of course the natural reefs had a beginning, but they can be increased by the spreading of oyster shells, and private bedding grounds can be made as productive as the natural reefs in exactly the same way. These reefs are generally of limited area, individually. The bottom is made hard by old shells, so that the oysters cannot sink in the mud; and the young oysters build themselves on top of the old ones, and the reefs extend no further than the oyster shells are scattered. In New York recently the oyster crop measured in dollars was as follows:

Product of cultivated oysters on rented bottoms.....	$1,972,540
Product of natural reefs.....	20,104

Showing how much more productive cultivated bottoms are. In Louisiana, as we have said, our crop is almost entirely a natural reef crop. How much greater our crop will be when we begin to intelligently cultivate oysters will be seen at once from the above figures.

2295 In order to bring about the most prolific oyster life in any given locality, we must have a proper mixture of fresh and salt water. The oyster gets its food from the *diatoms*, a low order of vegetable life, found in the fresh water, and it gets its lime to make its shell from the salt water. From investigations made it has been found that oysters live best in water ranging in density from 1.0011 to 1.0022 with pure water at 1000 as the basis. A great excess of either fresh or salt water is fatal to oyster life, determined to a great

extent by the age or size of the oyster, for the larger the oyster the greater the change in density it can stand. This has been clearly demonstrated by our experience with crevasses, expecially those occurring above the city of New Orleans, on the east bank of the Mississippi river. For instance, the water from the Nita crevasse killed all the oysters in the parish of St. Bernard. The point of proper mixture of fresh and salt water was, by this excess of fresh water, extended or pushed much further out into the salt water of the Chandeleur sound, and at this new point of proper mixture, at once oysters were found to begin to grow. When the crevasse was closed the old conditions gradually re-established themselves; the oysters in the sea were in time impoverished or made thin and of little value by the excess of salt water, and the oysters grew again on the old shells and reefs in St. Bernard, the proper line of water mixture gradually moving backward to the shore.

From this exposition of the subject, it appears that in order to develop oyster life to the best advantage, we must have:

1st. A proper mixture of fresh and salt water, ranging in density from 1.0011 to 1.0022.

2nd. Oysters, both male and female, present or in proximity in the adult stage, to make the oyster *spat*.

3rd. A bottom hard enough to keep the oyster shells from sinking in and being covered by the mud.

4th. Oyster shells, or some other hard clean material, scattered over the bottom to act as *cultch*, to which the young oyster
2206 spat may attach themselves.

These conditions exist naturally on the natural reefs; where they are found, there you find natural oyster reefs, and as long as they continue to exist the reefs will continue to produce annual crops of oysters. Where they do not exist naturally they can be brought into existence by the expenditure of labor and capital, in supplying the missing conditions, that is, in bedding adult oysters and spreading old shells on the bottoms, and this is what is done on the private bedding grounds. To insure a continuance of the existence of these favorable conditions on the natural reefs, or private bedding grounds, three things must be observed by the oyster fishermen that are absolutely necessary, and for the following reasons to-wit:

(*a*.) The fishermen, when fishing oysters from the natural reefs should *cull* their oysters and scatter the dead shells back on the reefs, because they become the *cultch* or attaching place for future young oyster *spat*, which would otherwise be smothered by the soft mud of the bottom, as they would have no other hard surface to which to attach themselves.

(*b*.) The small oysters under two and one-half (2½) inches in size from hinge to mouth, should also be returned by the fishermen to the natural reefs when they are fishing. The fishermen always take all the adult oysters, and it is necessary to return these small oysters

to the reefs so that they may in time become adult and produce young spat to keep the reefs alive.

(c.) No oysters should be removed from the natural reefs while the oysters are spawning *or* in their milky period, that is during the closed season from May 1st to September 1st, as this will then give the young spat a chance to set and replenish the reef.

Human nature is such, however, that the ordinary fisherman will not follow these simple natural laws even when they are for his own benefit. An effort is made to compel the fishermen to obey these natural laws by requiring them, under positive law, to do so; but our own experience and the experience of our sister oyster States shows that the task is almost, if not quite, hopeless, and sooner
2297 or later the natural oyster reefs are doomed to destruction.

That this may be appreciated let us take the fishing system in vogue with our oyster fishermen to-day. A fisherman will anchor his boat by pushing his pole in the bottom and fastens his rope or cable to it. He will then begin to fish over the side of the boat with his oyster tongs, depositing his catch on deck and gradually letting out his rope as he gathers up the oysters from the water bottom around him. After he has changed the position of his boat once or twice, he will have gathered up a deck load. He will probably have removed the oysters and dead shells from over one thousand (1,000) square feet of surface. He will now begin to clean or *call*, which consists in knocking the small oysters and dead shells from the marketable oysters. He does this sitting on the deck, without moving his boat, and the shells and small oysters *and* thrown overboard into two small piles in the water, on each side of his boat, covering scarcely twenty-five (25) square feet of bottom. In this way the size of the reef or the hard surface of the shells to which the young spat may attach itself is being reduced from 1,000 to 25 square feet, and no oysters will grow on the remaining 975 feet of bottom because all of the shells have been removed from it. To prevent this would require an inspector on each boat, an expense to the State out of all proportion to the benefit received by it, and our only hope for the oyster in the future lies in the direction of the encouragement of private bedding grounds, where it will be more to a man's interest to take care of his private reefs made by himself in such a way as to keep them annually productive to their fullest capacity, than is the case with public property where every one is interested solely in present results, and all are generally regardless of the future.

The Oyster Industry as It Is.

This is the first year during which we have ever had any statistics as to our annual oyster crop, or as to the number of those engaged in the industry. It is true that the oyster industry has been
2298 subject to legislative control, on a comparatively comprehensive basis, since 1886, yet that law and the laws of 1892 and 1896 were recognized by the fishermen more in their breach

than in their observance. There was no effective way or means provided to enforce the law until the act of 1902, when the present oyster commission was created. Even as it is, the present law is not designed to immediately develop the oyster industry. All that can be hoped for under its operation is to compile statistics, to have the benefit of a thoughtful and careful study of the industry by the gentlemen composing the oyster commission; and with that to educate our people to an appreciation of the true importance and possibilities in the development of the Louisiana oyster.

Under the present oyster law the waters of the State are regarded as a common, and all residents of Louisiana may enter thereon and fish oysters from the natural reefs upon the condition that they procure from the State, through the oyster commission, annual oyster licenses for their vessels, on the basis of fifty cents a ton; a license of two dollars per annum for each man using oyster tongs with which the oysters are fished, and the payment to the State of a privilege tax of two cents per barrel of oysters fished. It is possible that the amount of oysters marketed this year was slightly larger than the results of last year. This, however, does not mean that we have had a better or bigger crop. It means simply that a few more people were employed in depleting the natural reefs, which are at present practically the sole source of our oyster supply. Some one may, however, suggest that some of our oysters come from bedding grounds. This is true, but these bedding ground oysters, as the business is carried on to-day, have been merely transplanted, and are the identical oysters that came from the natural reefs only a few months, or perhaps a year, before, so no matter how you look at it, it comes right back to the proposition that we are at present dependent on the natural reefs for our oyster supply.

Now comes the serious problem. The crop on the natural reefs is getting scarcer and scarcer every year, the fishermen have to go further and work harder to get oysters from the natural
2269 reefs and in a given length of time are able to tong fewer oysters than they used to. This subject will receive further attention under the head of recommendations, as there is a ready remedy for it. Under the present law, also each dealer and shipper of oysters must pay an annual police license of $25.00, and each canner of oysters an annual police license of $100.00 The records of the oyster commission show the following licenses to have been issued for the several purposes during the year ending September 30, 1903, to-wit:

1574 vessels aggregating	$2,710.50
1,953 tongmen aggregating	4,882.50
27 dealers aggregating	689.00
3 canners, aggregating	301.50

It will appear from the above that the average vessel employed in the oyster industry has a tonnage of 2.44 tons, or an oyster carrying capacity of a little less than fifty (50) barrels of oysters of three and one-quarter (3¼) bushels per barrel.

The last annual oyster crop to September 1st, 1903, as we have heretofore stated, was one million, six hundred and seventeen thousand and forty-four (1,617,044) bushels. Under the oyster law of 1886, a citizen of the State could lease from the State for the purpose of oyster cultivation a part of the water bottom, not a natural reef, not to exceed three acres. Here he could deposit the oysters which he had fished from the natural reefs and when so deposited they at once became his private property, protected by the laws governing same. Oysters deposited anywhere other than on private bedding ground, leased from the State, belonged to whomsoever might wish to come along, find them a second time and take them. Under the oyster laws of 1892 and 1896, this area that any one person, firm or corporation could lease for the above purpose was increased to ten acres, and by the act of 1902 was further increased to twenty acres as a maximum. Some fishermen fish their oysters direct from the natural reefs to the market, and this is particularly the case with those who fish for the canning factories. The same practice has also been largely in vogue in Terrebonne and St. Mary parishes, where heretofore the natural reef
2300 oysters of marketable size were plentiful. Others fish on the natural reefs, and temporarily deposit their catch on provate leased bedding grounds where the oysters are increased in size and improved in shape and flavor, better fitting them for the counter trade, for which they are intended, where oysters are opened and sold on the half shell. It is this latter class of oyster fishermen who are the only ones who have heretofore made what little use has been made of the water bottoms belonging to the State. They wanted, however, individually but a small area for this purpose. They were even unwilling to spend money in improving this small bedding ground, and usually selected a part of a natural reef which was already a hard bottom, and leased it, notwithstanding that this was against the law. They did not try to make more oysters grow. They simply improved the oysters they had caught on the natural reefs. During the past seventeen years only a limited quantity of the water bottoms was leased from the State for the above purposes, and not an acre was leased for raising new oysters like other farmers make their crops. The new oyster law required the lessees of these previously leased bedding grounds, belonging to the State, under penalty of forfeiture of their rights, to register their leases, with the oyster commission within a designated length of time. This time has now elapsed, and the records of the oyster commission show the following data:

Five hundred and twelve leases made under the oyster laws previous to 1902, aggregating 2,820.52 acres distributed among the parishes as follows:

	St. Bernard.	Plaquemines.	Jefferson.	Lafourche.	Terrebonne.
No. of leases...	12	359	7	24	110.
Total acreage..	120	1547.07	70	120.68	962.77
Average.....	10	4.30	10	5.02	8.75

When we stop to think that in seventeen years the State has leased less than three thousand acres out of the five and one-half million acres that the State has to lease, and that we still have these five and one-half millions acres to lease, it strikes one at once that there must be something radically wrong with the system we heretofore followed and still follow, which prohibits any one per-
2301 son from leasing more than 20 acres of barren bottom, especially when one compares our results with that of other States.

Since the creation of the oyster commission, that body, as representing the State, has itself leased twenty-six hundred and seventy-seven and ten hundredths (2,677.10) acres to two hundred and thirty-eight (238) different people in the past year. This is more encouraging when we see how little was done in former years but it —still far from satisfactory, when we consider that we have still over five and one-half million acres that we wish to have become productive, and which can be made to grow oysters as profitably as the natural reefs.

Effect of Existing Conditions on the Future of the Oyster Industry.

The oyster commission at considerable expense, is policing the natural oyster reefs in the several parishes along the Gulf coast, and is endeavoring to enforce the provisions of the oyster law, prohibiting the removel of small oysters and dead shells from the natural reefs and preventing the fishing of oysters from the natural reefs during the closed season, or while the oysters are milky. To do this the commission has inspectors equipped with boats in all the coast parishes, and maintains two police boats, one a schooner and the other a gasoline launch, on the boundary to the eastward between the States of Louisiana and Mississippi. The commission is in this manner doing a great deal of good in a negative way, by trying to prevent any decrease in the natural reef supply, but it is at the same time endeavoring in a positive way to benefit the industry by encouraging the cultivating of oysters by private enterprise, as it is through this means and this means alone that there will ever come any material and permanent improvement in the oyster industry or any substantial benefit to the State. Protection of the natural reefs helps, but a much more effective means to produce results would come from increasing the oyster producing area. We have nearly six million acres of water bottom, hundreds of thousands of acres of which are now barren and unproductive, but which could be made to yield annually at least one
2302 hundred barrels of oysters per acre at but a small expense, if the law was designed to encourage this. Most of the people who are in the industry to-day, do not desire to see any increase or development in it. In fact, with few exceptions, they regard every new comer as an intruder into a business that belongs entirely and exclusively to them. That the State's water bottoms remain idle

and the State loses hundreds of thousands of dollars yearly in rentals is no concern of theirs, just so long as there is no development in the oyster industry. They get their oysters from the natural reefs for nothing, except the expense of going there and getting them, and the small tax of two cents a barrel they pay the State. They must know that it is yearly more and more difficult to find oysters on the natural reefs, and yet they are opposed to the leasing of the barren bottoms of the State on any liberal basis, because they fear that something might happen which would injuriously affect them. They do not know what this something is. Their fears are, in fact, entirely unfounded, and yet the best interests of the State are sacrificed to an alarming extent. The fisherman's influence has caused the law to be so framed as to restrict to twenty (20) acres the area of barren bottoms that any one can lease from the State and improve and plant in shells and oysters. The effect of this is to paralyze any development. On the basis of units of twenty acres and hand labor to work them, there are not and never will be in Louisiana sufficient people, without means, voluntarily willing to go into the cultivation of oysters in this way. Twenty years of experience has shown that the present oyster fishermen won't do it, and yet they do not want any one else to do it. It takes labor and money to change an acre of barren bottom into a condition as permanently and profitably productive as a natural reef. It can be done, has been done, is no experiment, and its development means the coming into the State treasury of an immense revenue from the leasing of these barren bottoms owned by the State, a revenue to the State that in the next ten years should easily reach a million dollars a year.

2303 One of the first things necessary to do to change the existing condition of things and to encourage the cultivation of oyster beds in this way is to remove this ridiculous limit placed in the law as to the area that any one person may lease. The State itself owns more barren oyster bottoms than there are high lands in cultivation in any one industry of the State, in which its citizens are engaged, yet how absurd it would be to say that no citizen should cultivate more than twenty acres of cotton, sugar, rice or corn land which these citizens own. Nevertheless, we find the astounding provision in the oyster law in which the State says that no person, firm or corporation can lease more than twenty acres of the State's own barren oyster bottoms, though she has six million acres to lease and in the past twenty years has not succeeded in leasing six thousand acres. The folly of this policy, from this point of view, appears with the mere statement of it. But it will be said, if the State does not put a limit on the area, a trust will get hold of the industry and the small fishermen will be crowded out. To any one who has given the subject any thought, this is manifestly impossible; it is nothing but a cry gotten up for a purpose. To make an American oyster trust it would be necessary to control and consolidate the oyster industries of the States of Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, North Carolina, South

Carolina, Florida, Alabama, Mississippi, Texas and Louisiana. The steel trust would not be a circumstance. To control the oyster bottoms of Louisiana alone, such a trust would have to pay into the State treasury of Louisiana the enormous sum of five million dollars ($5,000,000) annually, in rentals, besides ten million dollars ($10,000,000) in the two cent ($.02) tax, not considering what it would have to pay into the treasuries of the other States. *No trust could be formed when the title to the water bottoms was founded on a lease, as the law that permitted the lease could, by special provisions, prevent a trust.* Be that as it may, if a limit is needed and desired, place at five thousand (5,000) acres the maximum amount any one person, firm or corporation can lease. It would take twelve hundred persons to take up all of the water bottoms, and then there need be no fear, as any combination of these elements would be prohibited by the law itself, and we have many sugar plantations and cotton farms with as many as this. Connecticut and Rhode Island have no limit, and yet have no oyster trusts. Virginia, in Chesapeake bay, has no limit and she has no trust.

The reason that those who are in the oyster industry oppose any development or utilization of the great natural resources of the State, the reason they regard each new comer into the oyster industry as an intruder, is due to the mistaken idea that there will be so many oysters produced that it will hurt the market values now existing. This conclusion is absolutely unfounded when the facts regarding the real and future oyster demand are known, for the following among other reasons:

The people who are at present in the oyster industry, with the exception of the parish of Terrebonne, almost entirely depend upon the city of New Orleans for a market. Generally the fishermen have neither time, money nor ability to build up markets elsewhere. The result is that at times the New Orleans market is glutted, and then it is devoid of oysters. Houma, in Terrebonne parish, and Morgan City, in St. Mary parish, are largely engaged in the shipping of oysters outside of the State of Louisiana. Raw oysters, removed from the shell, are called shucked oysters, and these have been shipped by express successfully from Houma to the State of Washington, in the northwest corner of the United States, and she to-day is shipping raw oysters daily through Texas, California, to Salt Lake City, Utah, to Phœnix, Arizona, to Denver, Colorado, and, in fact, to twenty-six States. There is no reason, with liberal oyster laws in Louisiana, why this and the canned oyster business should not be built up to unlimited proportions, and there is no reason why we should not compete with the Atlantic Coast oyster, and successfully supply our superior southern oysters to the hotels and large consumers throughout the whole of the United States, at least west of the Mississippi river, and through a great part of said territory east of said river.

In order to be able to do this, we must be in a position to make

contracts for delivery, and this we cannot do unless we can get sufficient oysters to fill the contracts with certainty, and we have not enough oysters now to justify one in making a large contract for continued delivery. It will be five or six years before we
2305 would be able, even with liberal laws, to supply the demand as it exists to-day, not considering to what proportions the demand may be built up by industry and money, and this can be readily done. At one time the parish of Plaquemines produced more rice than all the other Louisiana parishes put together, and even then her product was comparatively small. Calcasieu, Acadia, and a number of western parishes started into rice, and it was feared by the Plaquemines planters that this extra supply would glut the market, that prices would consequently fall, and they would have to sacrifice their rice. How mistaken they were is shown by the fact that with a bigger rice crop this year than ever before, nearly 3,000,000 barrels from the western parishes, prices for rice for a time rule higher than ever before. This is explained by the fact that each new rice farmer as soon as he got into the rice business, at once began to look for and build up new markets. Such an increased demand has grown from the greater use of rice brought about through *by* advertising, by *rice kitchens*, and other means throughout the country, that the greatly increased crops are not only readily absorbed, but they are disposed of at greater advantage than ever before. It is true that the rice market is presently slightly depressed, but this will adjust itself. Thus we may confidently count upon the fact that a development of our oyster industry and an increase of our annual crops will carry with it an enormous increase of the already large demand brought about by new brains and new money in building up and establishing new markets.

The present demand from outside the city of New Orleans for the Louisiana oyster is many times greater than the supply. I know of one firm, perhaps the largest shipper of Louisiana oysters, who received two separate orders for a daily supply, either of which, if accepted, would have taken every oyster this shipper received, and all of the firm's other customers would have gone unsupplied.

These orders, however, carried with them a necessity of fill-them, a contract obligation which the firm was unwilling to assume, because it could not be sure of getting the oysters in the Louisiana market, owing to the insufficiency and irregularity of the supply.

This belief of the fishermen, that oyster development will
2306 hurt them, is very unfortunate, but it is equally unfounded, and it is the duty of our people to educate our fishermen to a true knowledge of the future consequences of these changes in the State's policy toward her oyster industry. This fear of the fishermen is nothing unusual; it is part of the history of the oyster industry of every State that has or ever had an oyster industry, and we can therefore profit by the mistakes of these other States and avoid them ourselves.

A Comparison with Other States.

Maryland, they have practically no private bedding grounds
lepend for their supply of oysters upon the natural reefs, which
ommon property and open to everyone. They endeavor to
ct these reefs by a most elaborate police patrolling system,
oying fourteen regular patrol boats and six extra vessels during
eason. In its time Maryland has produced more oysters than
ther oyster center in the world, yet depending on her natural
and not encouraging the production of oysters on barren bot-
by private enterprise, they have been killing the goose that
the golden egg, as exemplified by the following table of the
al oyster output of the city of Baltimore, which shows a won-
l but gradual falling off in production, to-wit:

Seasons.	Bushels.	Seasons.	Bushels.
-1886.....	7,405,963	1899–1900.....	4,062,665
-1889.....	6,559,733	1900–1901.....	3,502,114
-1890.....	5,925,400	1901–1902.....	2,877,861
-1894.....	4,913,060		

aryland has 31,543 persons directly engaged in her oyster in-
y. The above data were taken from the report of the bureau
atistics and information of Maryland, 1902, and a recent visit
at city shows a general feeling of depression and despair in re-
to the future of the Maryland oyster industry, and it is the
there now that the legislature will encourage private enter-
on leased bedding grounds. Dredging is authorized in this
, and enables the oyster fishermen to fish their oysters more
ply than we can, and they are therefore able to undersell
us.

In Virginia we find, on the contrary, that they have broken away from the ill-advised policy of Maryland as to leases, having adopted a more liberal policy towards the development e oyster industry, that State has now about 50,000 acres of her ing ground leased to her citizens, and the State and its citizens eaping the reward.

ne reports of the Virginia Oyster Commission show the follow-
expenses and net profit to the State for the following years:

Season ending—	Gross revenue.	Expenses.	Net profit.
30, 1900.....	$48,392.32	$21,534.71	$26,858.05
30, 1901..... ..	53,506.50	21,248.04	32,258.46
30, 1902.....	58,576.95	25,205.66	33,371.29

redging is extensively practised in Virginia, under wise legal
ations, to the advantage of all concerned.

Connecticut, we find the most liberal and logical laws in effect the oyster cultivating industry carried to its highest point of

development. According to the report of the oyster commission of that State for the year 1902 there were leased by the State to private parties sixty-six thousand, four hundred and eighty and eight-tenths (66,480.8) acres of water bottoms among 185 tenants. There is no limit in the Connecticut oyster law to the number of acres of oyster bedding ground that any one person, firm or corporation may hold. Notwithstanding this, there are 185 separate tenants, showing that no trust can control the oyster industry even when there is no limit as to area. The average holding is 359.30 acres, the smallest being one (1) acre, and the largest being ten thousand, five hundred and forty and two-tenths (10,540.2) acres. There are sixteen different firms and individuals with over one thousand (1,000) acres each. There were 102 steamers used to fish oysters in Connecticut waters, not including 79 sailing vessels.

In Connecticut no rent as such is charged for the use of the oyster bedding grounds, but annually, on November 1, grantees of oyster beds must make a report to the Connecticut Oyster Commission of the value of their beds, and an annual tax of one and one
2308 half (1½) per cent. is levied on this value. Connecticut's oyster industry is small as compared to the possibilities of Louisiana. The State does not strive for a direct revenue for herself, yet her net profit for the year ending September 30, 1902, was nevertheless $3,570.42. Dredging is extensively practised in Connecticut, and many of the private bedding grounds are covered by water seventy-five (75) feet deep, where oysters could not be cultivated unless the use of modern implements was permitted.

In Rhode Island, we find them using dredges wherever the water is over fifteen feet deep. This State puts no limit on the area any one may lease, and had on January 1, 1902, 102 leases, ranging in area from .03 of an acre to 987.40 acres. The annual rental ranges from $5.00 to $10.00 an acre, and the State's revenues for the last four years are as follows:

1900.....	$20,973.08	1902	$38,216.75
1901.....	25,767.38	1903	45,000.00

and the industry is prospering there, though it is composed largely of temporarily bedding seed oysters grown in other States, and brought to Rhode Island to increase in size and improve in shape and flavor.

In New Jersey we find them using modern implements in fishing and cultivating oysters. The report of the New Jersey commission for 1901 is interesting, as it shows they had to combat the same ignorance as to the real welfare of the oyster industry that we have here. They charge an annual rental of but twenty-five cents ($0.25) an acre for bedding grounds.

In Florida there is practically nothing being done in the way of the State's controlling her oyster industry, and it has suffered correspondingly. Some years ago, the United States Fish Commission made some elaborate studies of and researches into the oyster con-

ditions of Florida, and found the prospects very flattering, but the industry there, being without the control of any oyster commission or similar body, no development has occurred.

In New York, on January 1, 1903, that State had under lease, as private bedding grounds, 27,352 acres, which were rented for not less than 25 cents per acre per year rent. Before a lease is
2309 made the price is fixed by public auction, so that the State gets the benefit of any advantage possessed by any particular locality. The oyster industry comes under the head of the Shell Fish Department of the State Forest, Fish and Game Commission.

Great encouragement is lent by the New York oyster law to the development of her oyster industry. Among these encouraging features may be mentioned the right to lease as many acres as one wishes at a rental fair to the State and the applicant, and the right to use whatever means or implements one chooses in cultivating, fishing or harvesting one's oysters from his leased bedding grounds.

In North Carolina the total oyster product for the season ending August 31, 1902, was 643,410 bushels. Heretofore they have operated one steamer in patrolling the State's oyster beds, but the oyster commissioner in his report to the governor recommends the acquisition of three sixty-foot gasoline boats and three schooners for patrolling purposes. The gross receipts from January 1, 1901 to December 31, 1902, amounted to $29,473.63, while the expense during the same period reached the sum of $27,458.11. In North Carolina a tax of two cents ($0.02) per bushel is collected by the State on all oysters fished, which is over three times as much as we collect in Louisiana, and there you may use any implement you choose in fishing oysters on the natural reefs, except in designated places, where the use of anything but hand-tongs is prohibited. In other words, hand-tong fishing is confined to inland shallow waters, while in open and deep waters, where hand-tongs cannot be conveniently used, you may use the more modern implements.

Little or nothing has been done in North Carolina in the matter of leasing barren bottoms to private citizens for the purpose of oyster propagation and culture, and in this respect she is very much behind our own, and her other sister Atlantic States.

The above statement is based on the biennial report of the Oyster Commission of North Carolina, issued in January, 1903.

In Texas the latest report we have is dated August 31, 1900, and shows that the State then had 884 acres of oyster bottom under lease by the State to twenty-three individuals and one corporation.
2310 The State has an oyster law and a fish and oyster commissioner. The law authorizes the leasing of not exceeding 50 acres of bottom to a person, and prohibits corporations from holding more than 640 acres of oyster bottom. The lands are leased for an indefinite period at a rental of 10 cents an acre per year for the first five years, and 25 cents an acre per year thereafter. A charge of $5.

a year is made for a tongman's license. On private bedding grounds you can use any means or implements you choose in handling and marketing your oysters, but on the public reefs nothing but hand-tongs can be used. In speaking of this subject, Mr. I. P. Kibbe, the fish and oyster commissioner of Texas, says:

"The law prohibiting the use of any form of oyster dredge in the waters of this State has been a menace to the trade and detrimental to the growth of the industry. Dredges could be used with good results in many instances not only where the water is too deep for tonging but also where the oysters grow in ridges, for by the dredge the latter would be torn down or spread over a greater surface, thus furnishing a larger area for growth."

Texas claims to have 87,680 square acres of natural oyster reefs, yet her crop for the year ending August 31, 1900, was only 72,208 barrels with but 118 tongmen's licenses, and showing that her great natural resources have not even been worked, regardless of any development in the industry.

Mississippi, our sister State, has practically very little of her bottoms suitable for the cultivation of the oyster, and as a consequence her product largely consists of small reef oysters called "cove oysters," which when they are steamed shrink up to about the size of one's thumb-nail. This is due to the fact that her coast line is so open that there is an excess of salt water.

Her oyster law gives to the riparian proprietor the private use of the bottoms a distance of 500 yards off shore.

This area gets the benefit of the water shed from the land as stated, and except in cases of natural reefs it belongs to private parties and the State gets nothing from its use. There is no such thing
2311 known to the Mississippi law as leasing her barren bottoms to private parties for oyster culture upon the basis of a definite rental, and her annual oyster crop therefore comes from the natural reefs, except when supplemented by these riparian bedding grounds.

Mississippi authorizes the use of scrapers or dredges anywhere in fishing oysters. This is but proper in her case, as her waters are so open that with the least bit of wind it becomes so rough as to prevent a man standing up on the side of a boat and working his hand-tongs overboard. She, however, confines the use of these modern implements to sailing vessels and will not permit of them being used on boats propelled by steam, gasoline or other power. This is done in deference to the poor man, as they think he cannot afford to buy a steamboat, and they want to force him to a position of equality with his richer brothers so far as opportunity for business is concerned. It has a bad side, however, because a sailboat can work only when it has wind, and when there is a calm they must shut down everything, as the canning factories must be assured a regular supply of oysters in order to operate. Then, again, many excellent oysters are found in the deep water channels, and it is almost impossible to follow their curves and meanderings with a sailboat with a scraper dragging behind it.

While dredging in Mississippi has undoubtedly decreased the mber of adult oysters to be presently found there, it has never-less greatly enlarged the natural reef area, and as this is all cov-d with an excellent crop of small oysters, Mississippi will soon re again what she could just as well have lost through the use of nd-tongs. Mississippi's possibilities as an oyster producer do not mpare with Louisiana, as she has not the vast area of otherwise ren bottom covered by a proper mixture of fresh and salt water, ich area in Louisiana can be brought into cultivation by encour-ng private enterprise.

Recommendation.

In looking over the map of the Unit ed States, as well as those of foreign countries, it will be noted that the oyster fields of a 2 State or country are always found in proximity to the mouth of a river discharging its fresh water into the salt water of the . In this respect Louisiana possesses natural advantages enjoyed no other State, for it has the greatest fresh water river in the rid, the Mississippi, discharging its enormous volume of fresh ter into the salt water of the gulf of Mexico; and the area of proper xture of fresh and salt water, heretofore discussed, exceeds that of y other portion of the world. Her oyster fields can, therefore, be de that much more extensive in area, and her possibilities are hout parallel in oyster history, for the warmth of her waters kes her oysters grow many times as fast as they do on the Atlantic st, as will be seen from the relative natural size of the Atlantic st and Gulf Coast oysters at one year of age, as illustrated herein. Louisiana, however, will never be able to compete in oyster pro-ction with the other oyster States of the Union until she enjoys h them equal advantages in the use of the modern labor-saving plements in the gathering of her crops, particularly on private sed bedding grounds, nor until the ridiculous limit as to the area t may be leased is removed. Under the law as it is, even on 's own private bedding ground leased from the State, and for ich an annual rental of $1.00 an acre is paid to the State, one can nothing but hand-tongs to harvest one's crop, no matter how irable any other device may be, and no matter how much money ould save the lessee in gathering his oyster crop from his private ding ground. Though this is absurd, yet it is nevertheless true. ppose the legislature of our State were to say to the Calcasieu rice nter that he must use nothing but a hand sickle in gathering his crop, and must not use a reaper and binder, under penalty of ere punishment, although he might annually save thousands of lars thereby? Suppose it were to say to the sugar planter, You ll not use derricks, nor rope straps, nor the new cane loader; to cotton planter, You must not experiment with the hoped-for on picker, because we will not let you use it? If the legislature

tried to do such a thing with a rice planter, a sugar planter, o
cotton planter, the people would say it was outrageous,
2313 rectly contrary to the spirit of modern times, an idea t
would emanate appropriately from a Chinese legislature, b
certainly not from one of the United States, and yet this law unjus
stands on the statute books, preventing the oyster bedding grou
lessee from conducting his business according to the most improv
and economical methods. The law should be changed in this r
spect, and I have every reason to hope the legislature will
change it.

As to the wisdom of the use of modern implements on priv
bedding grounds, there can be no doubt. As to the wisdom of t
use of anything but hand-tongs on the natural reefs, there is a gr
deal of diversity of opinion. A very careful study of the whole su
ject, and an intimate knowledge of the oyster industry leads to t
following conclusions:

1. Oysters cannot be profitably fished with hand tongs in wa
over ten feet deep. Of course they can be fished; one could g
very long handled rakes and fish a few oysters, but for commerci
purposes oysters cannot be profitably fished in water over ten fe
deep.

2. Natural reefs in ten or less feet of water should not be fished wi
anything but hand or patent tongs. If the bottom is sufficient
hard, the scraper or dredge will not hurt the oyster reef, if the sm
oysters and dead shells are at once culled and thrown back on t
reefs, but in the present state of the public mind, I think the prop
sition to use scrapers or dredges in water under ten feet, on the natu
reefs, if it comes at all, should emanate from the small oyster fish
men. There is a scraper with a windlass that is now built at a co
of $40.00, a price easily within the reach of our small fishermen, a
they could use it to advantage in open water on rough days when
is impossible for them to fish with hand-tongs. Frequently the
cannot fish over the side of the boat with hand tongs, because of t
tossing of the boat by the waves, and if they had a small scraper
dredge they could fish their oysters with it while they sailed alon
and it would harm the reefs less than the use of the hand tong.
regard these shallow water reefs as properly the property
2314 the poor man, who has not the money to lease and prepare h
own bedding ground, and it will be time to permit them to u
these improved implements when they themselves ask for th
privilege, but when these dredges are used by the fishermen the
must cull their oysters and throw back on the reefs the culling
and dead shells, or the natural reefs will continue speeding on t
destruction.

3. If the bottom is soft, a scraper or dredge is injurious, becaus
it will press the oysters into the soft bottom and kill them.

has been claimed, and correctly, that the oyster reefs of Mississippi have been greatly increased in area by the bunches that have been broken up and the oysters scraped off the hard reef onto the soft bottom; but to my mind the use of live oysters to make hard bottom is a heroic means entirely unnecessary when the same thing can be done with dead shells.

(Here follow diagrams marked pp. 2314 *a* and *b*.)

2314a



A drag, or scraper, with hoisting winch, incorrectly called a dredge, used in deep water fishing.

23145

Oyster schooner fishing with drag or scraper. The drag is overboard on the

There is no mechanical appliance that has suffered more unjust criticism, born of ignorance, than has the scraper, commonly misnamed the dredge. Any one unacquainted with the facts would at once suppose that it was similar in construction to the mechanism we use in dredging our canals, and when one speaks of steam dredges we at once picture a machine competent to dig the Panama canal. All these ideas are born of absolute ignorance. The instrument is, in fact, nothing but a garden rake, with very short teeth, inclined at an angle with a chain net behind it. A rope is tied to it and it is thrown overboard, and follows or drags behind the vessel as it moves along. It merely scrapes or rakes the bottom, the short teeth set at an angle pass under the oyster, which falls back into the bag. The thing is pulled up on deck from time to time, and the oysters removed. It take*d* up the oysters just like you would rake the hay in your fields, but, of course, you must throw the small oysters and dead shells back on the reef for the reasons we have heretofore given, and just as tongmen must do, or you will soon destroy the reef. People say oysters are getting scarce in a certain locality because scrapers or dredges are used there. We hear the same complaint from localities where a scraper or dredge was never known. I know of hundreds of natural reefs that have been completely wiped out by hand tongs where a scraper or dredge has never been known, so that we must
2315 render justice where it is due. The fault has not been with the implement so much as it has with the man who operates it, as well as the man who operates the hand tong, in failing to return to the natural reefs the small oysters and dead shells. This is demonstrated by the fact that the use of scrapers or dredges is permitted and encouraged in Mississippi, Virginia, Maryland, New York, Rhode Island, Connecticut and New Jersey. A sailing dredge is one where the boat moves by sail, and a steam dredge is one where the boat moves by steam, and in the latter instance the scrapers are hauled on deck by means of steam.

In the open deep waters of the gulf of Mexico, off the mouth of the Mississippi river, off the mouth of the Atchafalaya river, south of the parish of St. Mary, and off Southwest pass of Marsh island in the parish of Vermilion, and off the mouth of the Calcasieu river, there are millions of barrels of oysters that have never been, and under the present law never will be fished. They are in water too deep to fish them with hand tongs, and being in the waters of the open Gulf, the small boats, now engaged in the oyster industry, are afraid to venture there, though boats patterned after the style of the Connecticut boats could fish these oysters easily, bringing a great profit to the State and a great development in the industry. It would mean the industrial salvation of Morgan City and all places similarly situated, were dredging permitted in deep or open water.

It is only logical and proper that our State Oyster Commission should be vested with discretion to permit the use of implements

and to encourage the adoption of means to bring these unused oysters into commerce, and the present oyster law should be so amended as to permit this discretion to be exercised by the commission.

In conclusion, it is our hope that we have shown that Louisiana owns, in her oyster bottoms, a veritable gold-mine. Indolence and poverty will not develop this vast vault of riches. It requires labor and capital, intelligence and industry. The door needs but to be opened, and the key is in the hands of the members of our State legislature.

The key is intelligent legislation that will provide:

2316 *First. That the oyster commission shall be vested with great discretion in matters concerning the oyster industry.*

Second. That the shallow water natural reefs shall be preserved for the poor man, who must, in turn, not be permitted to destroy these reefs.

Third. That the industrious man or company must be permitted to lease from the State and cultivate as many acres of barren bottom as he desires, not to exceed five thousand (5,000) to any one person or company.

Fourth. That each bedding ground lessee must be given the right to use such implements as he chooses in cultivating and gathering his own crops on his leased bedding grounds.

Fifth. That the oyster cultivator must be permitted to sell his own crop when he chooses.

Sixth. That in open waters and those too deep to be fished with hand-tongs, other means must be permitted to gather these oysters otherwise useless to man.

If such law be adopted, we shall, in less than ten years, see the State receiving a net annual revenue of one million dollars ($1,000,000) from these vast water bottoms belonging to her, and this amount will annually increase by leaps and bounds.

When we stop to think what a world of good could be accomplished with these funds in the matter of the education of our youth and the building of good roads throughout our State, we feel that the intelligence of our legislators will respond to the necessities of the occasion and secure to Louisiana the enjoyment of her lawful and logical rights.

* * * * * * *

Endorsed: Mississippi Document No. 83. Filed Sept. 22, 1904. Wm. D. Bullard, special commissioner for Mississippi. 1st.—pp. 5 to 18 inc. both 2d. Pp. 21 to 29 inc. both. 3rd.—pp. 73 to 81, inc. both. 3rd. Pp. 83 to 107, inc. both. Office, Supreme Court U. S. Filed March 13, 1905. James H. McKenney, clerk.

MISS. DOCUMENT No. 84.

Original.

CHAPTER 20.

Act Giving the Consent of this State to the United States to
urchase a Site on St. Joseph's or Half-moon Island for the Pur-
ose of Erecting a Light-house Thereon.

ECTION 1. Be it enacted by the legislature of the State of Mis-
ppi, That the consent of this State be, and the same is hereby
en to the United States, to purchase a site on St. Joseph's or Half-
on island for the purpose of erecting a light house thereon.
pproved February 17, A. D. 1842.
Laws of Mississippi 1842, page 134.

Endorsed:) Chapter 20 Laws of 1842. Document No. 84. Filed
t. 22, 1904, p. 1391 of record. Office Supreme Court U. S.
ed Mar. 13, 1905, James H. McKenney, clerk.

8 MISS. DOCUMENT No. 85.

Copy.

BILOXI, MISS., November 5, 1902.

his excellency A. H. Longino, governor of Mississippi.

SIR: We have the pleasure to transmit to you, herewith, a certi-
d copy of a resolution passed by the mayor and board of alder-
en of the city of Biloxi at their regular monthly meeting held in
e city hall on yesterday, the 4th inst. In transmitting this reso-
tion, we desire to call your attention to a few important facts in
nnection with the subject matter, to-wit:

1st. The territory in controversy, and concerning which a suit
s been filed in the Supreme Court of the United States by the
ate of Louisiana against the State of Mississippi, has been under
e control of the State of Mississippi, as we are informed and be-
eve, for so long a time that the memory of the oldest inhabitants
this section runneth not to the contrary.

2nd. It is our opinion that the State of Mississippi owns the ter-
tory in controversy, and we believe that, even though there is a
oubt as to whether said territory belongs to Mississippi or Louisi-
na, Mississippi and Mississippians have as much right therein as
ouisiana and Louisianians during the pending of the suit in the
nited States Supreme Court over the boundary line between the
tates of Mississippi and Louisiana.

3rd. The oyster reefs within said territory have been a source of
enefit, revenue, and profit to Mississippi and the citizens thereof.

4th. The State of Louisiana, whether under and by virtue of any law of that State or not, has invaded the said disputed territory and is patrolling the same with an armed force, for the purpose of preventing Mississippi oyster men from catching oysters upon the oyster reefs within said territory.

5th. This action upon the part of the State of Louisiana or its authorities, is working great hardship and becoming very prejudicial to the interests of the State of Mississippi and its citi-
2319 zens; and, as result thereof, a large number of the citizens of Mississippi, to-wit; about one hundred, owning oyster boats to the value of about one hundred thousand dollars, have gone and are going into the State of Louisiana, and have there taken out, and are taking out licenses in order to evade arrest by the authorities of Louisiana for catching oysters upon the oyster reefs within said disputed territory.

6th. The law passed by the last legislature of the State of Louisiana, as Your Excellency will remember, forbids any oysters caught within the boundaries of Louisiana to be brought into the boundaries of Mississippi for any purpose whatever.

7th. It is our opinion that it is the duty of the executive of the State of Mississippi to see that the law is enforced to the extent that the rights of Mississippi and Mississippians in said disputed territory are fully protected.

In view of the foregoing matters, and in behalf of the mayor and board of aldermen of the city of Biloxi and the citizens of the entire coast section, we would respectfully and earnestly request and urge that Your Excellency come to the coast for the purpose of fully investigating and becoming acquainted with the situation as it is, to the end that the rights of Mississippi and Mississippians in the territory in controversy may be accorded the protection that justice demands.

Trusting that Your Excellency may see fit to grant the request herein made, and assuring you of our hearty co-operation in every way possible in this matter,

We beg to remain,

Very respectfully yours,

(Signed) E. M. BARBER,
E. C. JOULLIAN,
Committee on Part Citizens' Meeting.

(Signed) T. J. ROSSELL,
J. B. CHINN,
E. GLENNAN,
Committee on Part of Mayor and Board of Aldermen.

0 Copy from Pages 130, 131, and 132, Minute Book No. 5, of the Mayor and Board of Aldermen of the City of Biloxi.

t a regular meeting of the mayor and board of aldermen of the of Biloxi, held November 4, 1902, the following communication presented:

o the hon. mayor and board of aldermen of the city of Biloxi.

GENTLEMEN: At a meeting held in the Fireman's hall, Nov. 3rd ., composed of citizens directly and indirectly interested in the iness of catching and canning and shipping oysters, 'the unlaw- usurpation of a part of the public oyster reefs belonging to the te of Mississippi' was discussed, and we, the undersigned, ap- nted a committee to present to your honorable body a request for in behalf of the aforesaid citizens that you communicate offi- ly to his excellency, Hon. Gov. A. H. Longino, the above men- ed unlawful usurpation of the rightful property belonging to the zens of the State of Mississippi, requesting his personal investi- ion and the assistance of his executive authority in the protection he lawful rights of the citizens of this State. We ask the con- eration of your honorable body and stand ready to answer to the t of our ability and knowledge all questions concerning the tter.

Very respectfully,
(Signed) E. C. JOULLIAN.
E. M. BARBER."

he following resolution was introduced and adopted:

Resolved, That it is the sense of the mayor and board of alder- n of the city of Biloxi, in view of the unsettled condition of the ndary dispute between the States of Mississippi and Louisiana, olving, as it does, the question of the rights of Mississippians to oysters in the oyster beds which have been under the control Mississippi from time immemorial, that it is the duty of the ernor of the State of Mississippi to make a trip to the coast to familiarize himself with the conditions surrounding the l question: and to this end, T. J. Rossell, E. Gennan, and Buck Chinn, members of this board, are, by order of said mayor board of aldermen, appointed as a committee to act in conjunc- with E. M. Barber, and E. C. Joullian, the committee appointed the citizens' meeting to confer with this board on said question, draft a letter to the governor of the State of Mississippi, express- to him that it is the desire of this board and the entire commu- that he look into this matter and protect the interests of sissippi in said territory.

Further ordered, that the above resolution be spread upon the utes and a copy thereof forwarded to the governor."

STATE OF MISSISSIPPI,
County of Harrison, City of Biloxi,

I, O. G. Swetman, clerk of the mayor and board of alderme
the said city of Biloxi, do hereby certify that the above and
going two (2) typewritten pages constitute a true and correct
of a communication signed by E. C. Joullian and E. M. Barber
sented to the mayor and board of aldermen of the city of Bilox
a regular meeting of said body on Nov. 4, 1902, and of a resolu
adopted by said mayor and board of aldermen at said meeting
the same appear of record on pp. 130 and 131 of Minute Book
5, of said city council, which said minute book is now in my
tody as clerk of said mayor and board of aldermen of the cit
Biloxi.

Witness my signature this the 24th day of August, 1904.

(Signed) O. G. SWETMAN, Clerk

(Endorsed ·) Louisiana *vs.* Mississippi Miss. Doc. 85 Filed S
5 and Sept. 23rd 1904. Wm. D. Bullard commissioner. Office
preme Court U. S. Filed Mar. 13, 1905. James H. McKenn
clerk.

2322 MISS. DOCUMENT NO. 86.

(On Cover.)

Report of special committee appointed to investigate the subj
matter of the bill to provide for defraying the expenses of t
State of Mississippi in the case of The State of Louisiana *vs.* T
State of Mississippi, now pending in the Supreme Court of t
United States, wherein the boundary lines of said States are
dispute.

(The Tucker Printing House, Jackson.)

2323 Report of special committee appointed to investigate the su
ject-matter of the bill to provide for defraying the expenses
the State of Mississippi in the case of The State of Louisiana
The State of Mississippi, now pending in the Supreme Court of t
United States, wherein the boundary lines of said States are
dispute.

Mr. President:

Your committee appointed to investigate the subject-matter of th
bill to provide for defraying the expenses of the State of Missi
sippi, in the case of The State of Louisiana *vs.* The State of Missi
sippi, now pending in the Supreme Court of the United States, wherei
the boundary lines of said States are in dispute, beg leave to re
port:

That on investigation and from the testimony of the most reputable witnesses, composed of the business men of the beautiful, thriving and growing city of Biloxi, and from a personal investigation of the enterprises and industries dependent upon the property now in dispute between the States of Louisiana and Mississippi, and claimed by the State of Louisiana, we state the following to be facts, amply supported by undisputed and undeniable evidence of the highest character, and the existence of enterprises and industries of which Mississippi should be proud and from which she is now deriving a large revenue and will derive a larger as the years go by:

1st. That the territory in dispute in said case and claimed by the State of Louisiana of and from the State of Mississippi, exceeds three hundred square miles.

2d. The said territory in dispute is worth to the State of Mississippi, and her people, ten times all the oyster and water territory in the State of Mississippi not in dispute.

3d. That said territory in dispute, based on the lowest estimate, is of the value of two millions of dollars, and will increase in value.

4th. That the Mississippi Oyster Commission, at its last report, reported for the years 1902 and 1903, that there had been
2324 collected from the oyster business in Mississippi the sum of $14,020.45, and the expense $11,982.67, leaving a balance of $2,057.88, which was turned into the State treasury. That the larger part of said expense was paid out for the purpose of planting oysters, and the building up of reefs in the waters of Mississippi sound. So it will be seen that the expense money is devoted to a purpose which results in the increased value of said territory, and therefore, the revenue therefrom, to the State of Mississippi, is increased yearly, and we are informed that the last year that has not yet been reported will show a large increase in its revenue therefrom to the State.

5th. That there are five large canning factories in operation in the city of Biloxi, and four shippers of raw oysters, and the volume of said shipping and canning business in said city of Biloxi amounts to one million dollars per annum, and one-half million of dollars is invested in said business, and all of this is in the city of Biloxi.

6th. That taking into consideration said business all along the coast in the State of Mississippi, including Biloxi, the volume of said business exceeds a million and a half dollars per annum, and it takes, and there is used in each year, to operate said business more than a million and a quarter dollars in cash, and the daily number of employees in the cannaries alone, is about one thousand, and more — three hundred boats and twelve hundred employees engaged in catching the oysters, and the daily pay-roll for labor in handling the oysters amounts to over one thousand dollars, and for catching the oysters one thousand and five hundred dollars per day. And the average value monthly of the oysters caught is about one hundred and twenty-five thousand dollars for the cannaries alone, and does not include those caught for the raw shipments of shrimp

business, which is large, and the sales of one firm, "Lopez & Dukate," for the month of February, 1904, amounted to ninety thousand dollars.

7th. The oyster catch for this year will amount to eight hundred thousand barrels, and the shrimp business amounts, at Biloxi, to fifteen thousand barrels, which are worth sixty thousand dol-
2325 lars, in their raw state and two hundred thousand dollars in their finished state.

8th. That all of the foregoing figures were doubled year before last, at which time oysters were caught from the territory now in dispute and claimed by Louisiana. And if Louisiana succeeds in winning the territory that she claims, it will have the effect to virtually destroy the oyster and shrimp business in the State of Mississippi, and the property of our citizens invested in said business will be completely lost and they suffer irreparable injury, and the State of Mississippi suffer a loss of about three hundred square miles of her most valuable territory.

We can form no definite opinion as to which State will win out in said case, as the determination of the issue involved depends upon a construction of the acts of Congress, admitting the said States into the Union, with reference to the boundary lines of said States as fixed by said acts of Congress, and also upon what has been the recognized boundary lines of said States and other questions of fact.

Your committee find that in addition to the immense interests this State has in the oyster and fish industry, that the "deep water channel" claimed by Louisiana to be the dividing line between the two States hugs the Mississippi shore across Hancock and part of Harrison counties, and if her claim should be established, it would be a menace to our commercial and maritime interests, especially as to the deep water channel constructed out of Gulfport by the Gulf and Ship Island Railroad Company. The contention of our State, as set up by her answer and cross bill, to the effect that Congress in creating States, out of the Gulf coast territory did not intend that one State should dominate the mouths of the rivers and the water front, and that Louisiana had her three league reach to her south, and that Mississippi has her six league reach to her south, both seaward. It cannot fail casual observation that Louisiana in her three league reach around the mouth of the Mississippi to the Sabine, has more sea frontage than Mississippi with her six league limit from Pearl river to the Alabama line.

2326 Your committee further find, as it believes, that Louisiana has been preparing, as she had the right to do, for several years to make this contest, and that she has not spared means to present her case strongly. In addition to the active services of her historical society, which, as we are informed, has been both diligent and discreet in gathering pertinent data, she has to assist her Attorney-general, Hon. Walter Guion, and his assistant attorney-general, Lieutenant-Governor Albert Estopinal, Judge Zachrie and Mr. John Dymond, Jr., of New Orleans, and Mr. Alexander Porter Morse, a

ry eminent lawyer at Washington, who was lately official attor-
y for the District of Columbia.
Hon. Monroe McClurg had followed the case closely from the be-
nning of the suit, and we approve of his being retained under the
tute to aid General Williams, whose duties would not permit him
spend months in taking testimony and following the case to
ashington. Mr. McClurg immediately employed Judge Hannis
ylor to aid him. We approve this: Judge Taylor was our min-
er plenipotentiary to Spain at the outbreak of the Spanish-Ameri-
n war; he is now professor of international law in the Georgetown
. C.) law school. He was one of counsel in the great Alaskan
undary case, and the author of the Origin of the English Consti-
tion and of International Law, both of said works being pro-
ounced by competent judges as being among the best of their kind
print. Mr. Taylor is a native Mississippian, but was a member
the Mobile bar when appointed minister to Spain. We regard
s selection a wise one. Governor Longino also employed Messrs.
odd & Griffith, of Biloxi, as he did General McClurg, to look to the
gislature for compensation; they are practitioners in the storm
nter of the controversy and are valuable, not only because of their
nown legal ability, but because of their opportunity to gather per-
nent testimony for our State.

It is deemed not out of place to say here that our side is making
od progress, the State of Louisiana has already served notice to
withdraw a great portion of her bill and exhibits, and which
327 our attorneys will resist. March and April have been agreed
upon for Louisiana to take her testimony, while our State
ill take May, June and July, with August and to September 15th
r Louisiana to rebut, and then Mississippi to October 1st, when
ne evidence is to close and be printed, and the case will most likely
e ready for hearing by the first of next January.

Therefore, in view of the foregoing facts hereinbefore stated, we
elieve that it is the duty of the State of Mississippi, to defend said
ase and contest the claim of Louisiana to said territory, and defend
nd protect her title to said territory, and above all protect the pri-
ate property of her citizens that is necessarily effected by the issues
nvolved in said case, and to furnish all money necessary to that
nd.

We, therefore, recommend that senate bill No. 60 do pass.

Respectfully submitted,

PATRICK HENRY, Chm.
W. J. CROOM,
E. H. MOORE,
H. BLOOMFIELD,
H. H. ELMORE,
Committee.

Mississippi Senate Journal 1904, pp. 568–571.

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. No. 86. Filed in connection with the testimony of Gov. Longino, Sept. 23rd 1904 Wm. D. Bullard, commissioner, Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2328 (Documents Nos. 87, 88, 89 & 90 are maps, 88, 89 & 90 being in the original and photographic form, and will be found in the Mississippi Atlas of Maps.)

2329 MISS. DOCUMENT NO. 91.

Original.

Report on the agriculture and geology of Mississippi, embraced in a sketch of the social and natural history of the State, by B. L. C. Wailes, geologist of Mississippi, member of the American Association for the Promotion of Science, corresponding member of the Natural Institute, and of the Boston Society of Natural History, etc., etc.

Published by Order of the Legislature.

E. Barksdale, State Printer.
1854.

1. Historical Outline.

The State of Mississippi lies between the thirty-first and thirty-fifth parallels of north latitude, with the addition of that portion lying between the first mentioned parallel and the gulf of Mexico and Lake Borgne and east of Pearl river. On the west it is bounded by the Mississippi and Pearl rivers, and on the east by a line dividing it from the State of Alabama, which is drawn from the mouth of Bear creek on the Tennessee river to the northwestern corner of Washington county, Alabama, and thence south to a point on Grand bay on the gulf of Mexico, about seventeen miles due west from the bay of Mobile. The State also embraces the islands in the Gulf within six leagues of the northern shore, the principal of which are Horn, Ship, and Cat islands.

The width of the State along the northern boundary is one hundred and twenty miles; on the sea shore seventy-eight miles; and along the 31° of north latitude one hundred and eighty-six miles. The greatest length from north to south is three hundred and thirty miles. It embraces an area of 55,500 square miles or 35,520,000 acres.

(Endorsed:) Extract from Wailes' report. Louisiana *vs.* Mississippi Miss. Doc. 91 Filed Oct. 1 '04 Wm. D. Bullard, commissioner Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

0 MISS. DOCUMENT No. 92.

Original.

liminary report on the geology and agriculture of the State f Mississippi, by L. Harper, L. L. D., correspondent of the Im-erial Museum for Nat. Science of France, etc., State geologist of Mississippi.

By Order of the Legislature of Mississippi.

E. Barksdale, State Printer.
Jackson.
1857.

Geographical Description of the State of Mississippi.

The State of Mississippi is bounded, north, by Tennessee; the ndary line, which separates it from the latter State, agrees with 35 degree of N. lat. It commences W. on the Mississippi river, g. 90° 18′, divides Horn lake in two parts, leaving only a part of southern arm in the State of Mississippi, and comes out of the e exactly below a ridge of hills, reaching the lake from the E. From there, that boundary line continues to the Tennessee river, king this river under the 88° 13′, of long. from Greenwich. From re to the mouth of Big Bear creek under the 88° 7′, the Ten-see river forms the boundary line of Mississippi, leaving a small ner within the square of the State between it and Tennessee, to State of Alabama.

From the mouth of Big Bear creek, from the 88° 7′, of long. from eenwich, the State *if* is bounded E. by Alabama, the boundary e going from that point in a direction of about S. S. W., or more ictly S. 15° W., to a point under lat. 32° 8′, long. 88° 38′, from which point it turns again a little E., and goes S. 15° E. to the 31 gulf of Mexico, which it reaches in lat. 30° 25′, long. 88° 18′.

From the latter point to the mouth of Pearl river, lat. 30° ′, long. 90° 25′, the gulf of Mexico forms the boundary of the con-ental part of the State, not excluding, nevertheless, a number of nds, of which Round, Horn, Ship, Deer, Cat, and Aupied islands the principal.

From the latter point, lat. 30° 13′, long. 88° 18′, in the mouth of arl river, this river makes the W. boundary of the southern part Mississippi, to lat. 31°, long. 88° 45′, separating the State from t of Louisiana.

From the latter point on Pearl river, lat. 31°, long. 89° 45′, the uthern boundary line, which separates Mississippi from Louisiana, rresponds with the 31° of N. lat. to the Mississippi river, in long. ° 41′.

From this point, in lat. 31°, long. 91° 41′, to the line of Tennessee, in lat. 35°, long. 90° 18′, the principal channel of the Mississippi river forms the western boundary line of the State, and separates its southern part from the State of Louisiana, and its northern part from Arkansas.

The territory, on whose geology I have the honor of reporting to the legislative body of the State, extends, therefore, according to the above geographical description, from the 35° of N. lat. to lat. 30° 13′, and measures, in its greatest latitudinal extent, 287 geographical, or 331.65 statute miles.

In longitude it extends under the 31° of N. lat. from the Alabama line, in long. 88° 23′, to long. 91° 41′, on the Mississippi river, and measures, in its greatest longitudinal extent, 198 geographical, or 227.7 statute miles.

The State has the smallest latitudinal extent west of Pearl river, where the southern boundary line follows the 31° of N. lat. It measures there in length 4° *degrees*, from the 31st to the 35th, or 330 geographical, or 276 statute miles; and width, from long. 88° 23′, on the Alabama line to long. 89° 45′, on Pearl river; extending over 1° 11′, or 71 geographical, or 81.65 statute miles.

The area comprehended in the territory of the State of Mississippi comprises, according to a careful calculation, about 45,468 square miles or 29,099,520 acres of ground, which is divided as follows among the different geological formations in the State:

(Endorsed:) Extract from Harper's Report 1857. Louisiana vs. Mississippi. Miss. Doc. No. 92. Filed Oct. 1/04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2332 MISS. DOCUMENT NO. 93.

Original.

CHAPTER XL.

An Act to Provide for the Printing of the Second Annual Report of the Agricultural and Geological Survey of the State, and for Other Purposes.

SEC. 1. Be it enacted by the legislature of the State of Mississippi, That so much of "An act to further endow the University of Mississippi," approved March 15th, 1850, as appropriates out of the treasury three thousand dollars per annum to aid in making an agricultural and geological survey of the State, and also so much of said act as connects the said survey in any manner whatever with the university, be, and the same is hereby, repealed.

SEC. 2. Be it further enacted, That the agricultural and geological survey of the State shall be prosecuted and completed, according

the provisions of the above recited act, and of any act entitled An act to authorize the printing of the first annual report of the gricultural and geological survey of the State," approved March t, 1854, by a State geologist, to be appointed by the governor.

SEC. 3. Be it further enacted That the State geologist shall keep is office in the city of Jackson, and shall receive a salary of two ousand dollars per annum, to be paid quarterly, upon the requisition the governor, and shall also be furnished with such an outfit as may e necessary to be provided under the direction of the governor; he all also keep an exact account of his expenses in making his sur- ey, and submit the same to the examination of the governor, who all issue his requisition upon the treasury for the amount, pro- ided the sum shall not exceed one thousand dollars per annum.

SEC. 4. Be it further enacted, That twelve hundred dollars be, and he same is hereby appropriated, out of any money in the treasury ot otherwise appropriated, for the purchase of suitable apparatus r making the analysis provided for in the above recited acts. The pparatus shall be purchased under the direction of the governor, nd shall not cost, including all expenses in procuring the same, ore than the same herein appropriated.

SEC. 5. Be it further enacted, That the State geologist may occupy a laboratory the two front rooms in the second story of the Peni- ntiary building, and shall be allowed the assistance of one con- ict, to be named by the inspectors, to aid him in keeping his ap- aratus in good order.

SEC. 6. Be it further enacted, That five thousand copies of Pro- ssor Harper's report be printed, under the direction of the gov- nor, to be bound in boards, with such plates, charts, and wood- uts therein, as His Excellency may deem appropriate and neces- ry for its illustration.

SEC. 7. Be it further enacted, That when said report shall be rinted and bound, it shall be distributed according to the provis- ions of the last recited act.

333 SEC. 8. Be it further enacted, That a sum not exceeding three thousand five hundred dollars be appropriated, to be rawn from the treasury upon the requisition of the governor, for e purpose of carrying into effect the sixth and seventh provisions this act.

SEC. 9. Be it further enacted, That Professor Harper shall be en- tled to receive a salary at the rate of two thousand dollars per annum, om the first day of November, 1856, to the first day of March, 1857, being necessary to allow him time to finish writing out his re- ort.

SEC. 10. Be it further enacted, That the State geologist to be ap- ointed under the provisions of this act, shall enter upon the dis- harge of the duties of his office on the first Monday of March, 57, and this act shall go into effect from and after its passage.

Approved January, 31, 1857.

Laws of Mississippi 1857, page 113.

(Endorsed:) Act of 1857 directing distribution of Harper's report &c. Louisiana vs. Mississippi Miss. Doc. 93 Filed 10/1/04, Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2334 MISS. DOCUMENT NO. 94.

Original.

CHAPTER XXXVIII.

An Act Entitled An Act to Provide for the Appointment of an Harbor Master for Ship Island Harbor, and for Other Purposes.

Be it enacted by the legislature of the State of Mississippi, That the governor of the State shall biennially appoint an harbor master for the harbor of Ship island and for other harbors and anchorages upon the sea coast of Mississippi, to superintend the delivery and unloading of ballast within such place.

SEC. 2. Any harbor master may continue to act until his successor is appointed and qualified, or if any person appointed shall fail to act, or a vacancy in said office should otherwise happen, the board of police of Harrison county shall fill such vacancy, and such person so appointed by said board shall continue to perform the duties of said office until his successor is duly appointed and qualified.

SEC. 3. The harbor master may appoint one or more assistants, and all the provisions of this act in respect to the harbor master shall apply to such assistants. If any person after accepting the said office shall fail in any duty prescribed in this act, he shall forfeit and pay the sum of one hundred dollars to any person who will sue for the same, one half for the use of the State.

SEC. 4. The said harbor master shall be entitled to receive for his services the sum of two hundred dollars per annum, to be paid him out of the State treasury and the auditor of public accounts is hereby authorized to draw his warrant in favor of the said harbor master, upon exhibition of his certificate of appointment.

SEC. 5. Every harbor master on receiving information that ballast is to be discharged from any vessel in such harbor, roads or anchorage, shall go on board such vessel and attend until the whole is unloaded. He shall see that it is brought on shore, or in water not more than four feet deep, and laid in some convenient place where it will not obstruct navigation, nor be washed or rolled in the channel, and thereupon he shall give to the commander of such vessel a certificate that his ballast has been duly unladen from on board his vessel, on being paid by such commander the sum of three dollars per day for each day's attendance.

SEC. 6. Every commander of a ship or vessel having ballast to

unload shall give notice in writing to some harbor master of the time when he intends to unload the same. If any such commander shall land, or cast overboard any ballast, without having given such notice, or otherwise than according to the directions of an harbor master, he shall forfeit and pay the sum of five hundred dollars, to be sued for by said harbor master, who is hereby authorized to proceed for the recovery of the same by attachment or otherwise.

SEC. 7. If a commander of any vessel, from which ballast has been unloaded, shall, when required by any ballast master, justice of the peace, sheriff, coroner, constable, or freeholder of the county or town adjacent to, which said vessel may ride, fail to produce the certificate of the harbor master, he shall forfeit and pay the sum of fifty dollars.

SEC. 8. If the commander of any vessel, or any person on board thereof, shall cast into the channel of the harbor of Ship island, or any other harbor, road, or anchorage, within the jurisdiction of this State, any ballast, stone, or other heavy articles, he shall forfeit and pay the sum of five hundred dollars to any one who shall sue for the same, one half to the use of the State.

2335 SEC. 9. All justices of the peace, sheriffs, coroners, constables, harbor masters, members of the board of police and corporate authorities of the towns and counties of Jackson, Harrison, and Hancock, are hereby required to bring suit immediately against any commander of any vessel, or other person offending against the provisions of this act, and if any such officer on receiving information of such violation shall fail to institute suit against such persons, — shall be deemed guilty of a misdemeanor, and on conviction shall be fined in a sum of not less than ten nor more than fifty dollars.

SEC. 10. This act shall take effect and be in force from and after its passage.

Approved, November 19, 1857.

Laws of Mississippi 1857, page 109.

(Endorsed:) Act of 1857 (Miss.) defining duties of harbor master and giving jurisdiction — justices of the peace &c. Louisiana *vs.* Mississippi Miss. Doc. 94 Filed 10 1 '04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905 James H. McKenney, clerk.

2336 MISS. DOCUMENT No. 95.

Original.

Acts of 1812 Relating to the Division of the Original County of Mobile into the Counties of Mobile, Jackson, and Hancock.

Act of December 18, 1812 (Stat., p. 37).

63. SECT. 1. The country of Mobile be, and the same is hereby divided in the following manner, to-wit: All that part of the county situated south of the thirty-first degree of north latitude, and bounded east by the Perdido river, west by the dividing ridge between the Mobile river and the Pascagoula, shall compose a county which shall be called "Mobile."

SECT. 11. All that tract of country within the following boundaries, to-wit: South of the thirty-first degree of north latitude and west of the dividing ridge between the Mobile and Pascagoula, and east of a line running due north from the middle of the bay of Baloxi to the thirty-first degree of north latitude, shall compose a county which shall be called "Jackson."

SECT. 111. All that tract of country lying south of the thirty-first degree of north latitude and west of the line running due north from the middle of the bay of Baloxi to the thirty first degree of north latitude and east of the Pearl river, shall compose a county and shall be known by the name of "Hancock."

Digest of the Statutes of the M. T., page 108.

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 95 Filed 10 1 '04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

2337 MISS. DOCUMENT No. 96.

Original.

Section 4 of Chapter 84, Laws of Mississippi, Approved December 16, 1830.

And be it further enacted, That the south boundaries of the counties of Hancock and Jackson be, and they are hereby extended to the south boundary of this State.

Laws of Mississippi 1830, page 114.

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 96 Filed 10 1 '04, Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

2338 MISS. DOCUMENT No. 97.

Original.

CHAPTER 52.

An Act to Extend the Jurisdiction of the County of Harrison, and for Other Purposes.

(Only Section 1 of This Act is Copied Herein.)

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That the county of Harrison shall be bounded on the south by the southern boundary of the State of Mississippi.

Approved February 22, A. D. 1842.

Laws of Mississippi 1842, page 174.

(Endorsed:) Sundry acts of Miss. T. and State relating to coast counties. Louisiana *vs.* Mississippi Miss. Doc. 97 Filed 10 1 '04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

2339 MISS. DOCUMENT No. 98.

Original.

CHAP. CXXV.

Memorial of the Legislature of the State of Mississippi.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the legislature of the State of Mississippi respectfully represents: That it is important that light houses should be erected at the Rigolets, Joseph's island, at the mouth of Pascagoula and Pass Christian, on the waters of Lake Borgne; that the citizens of this State are extensively engaged in commerce on the whole coast, from Mobile to New Orleans, in the transportation of lumber, wood, sand, lime, and cattle; that the Rigolets is the only entrance into Pontchartrain to New Orleans; that the entrance into the lake cannot, by the most experienced navigator, be discovered at night, because no object presents itself at the entrance but a dreary marsh, which at night is difficult to avoid; that for the want of a light at Joseph's island, vessels frequently mistake the channel and either get aground or are wrecked; that the contractors for the transportation of the United States mail by steam boats, from Mobile to New Orleans, could not comply with their contract except by hiring in-

dividuals to suspend lamps at their private expense, and for the want of lights at other points the contract has been totally abandoned. The importance of the light houses as a means of facilitating the commerce of other States who navigate the waters of Lake Borgne and Pontchartrain, must be well known to your honorable body. We, therefore, pray that an appropriation may be made to carry into effect the object of this memorial.

Resolved by the senate and house of representatives of the State of Mississippi, in General Assembly convened, That a copy of this memorial be transmitted by the governor of this State to our Senators and Representatives in Congress.

Approved: January 26th, 1830. Laws of Mississippi, 1830, page 205.

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. 98. Filed 10 1 '04. Wm. D. Bullard, commissioner. Office Supreme Court U.S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2340 MISS. DOCUMENT NO. 99.

Original.

CHAPTER 36.

An Act to Provide for a Survey of the Mississippi Coast.

SECTION 1. Be it enacted, by the legislature of the State of Mississippi, That an engineer shall be appointed by the governor of the State, whose duty it shall be to make, as early as practicable, a survey of the whole of the sea-coast upon the southern boundary of this State, and report to the governor of this State, who shall lay the same before the legislature at its next session.

SEC. 2. And be it further enacted, That said engineer shall receive, as his compensation for such service, a sum not exceeding two thousand dollars, to be allowed by the legislature after such surveys shall have been made.

SEC. 3. And be it further enacted, That this act shall be in force from and after its passage.

Approved February 14, 1839.

Laws of Mississippi 1839, page 56.

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 99 Filed 10 1 '04. Wm. D. Bullard, commissioner. Office Supreme Court U.S. Filed Mar. 13 1905, James H. McKenney, clerk.

2341 MISS. DOCUMENT No. 100.

Original.

CHAPTER 150.

Joint Resolution to Congress for a Light-house on the Shoal or Middle Ground between Pass Christian and Pass Mary-Ann.

Resolved, by the legislature of the State of Mississippi, That our Senators in Congress be instructed, and our Representatives be requested, to use their exertions to procure the passing of a law by Congress, with an appropriation, to build a light-house on the south point of the shoal or middle ground between Pass Christian and Pass Mary-Ann, nearly west of the Cat Island light-house, in order to enable vessels to find and use said Pass Mary-Ann in the night, which is now impracticable, and very hazardous for the want of such light-house, and in consequence of Pass Christian being so crooked, narrow, and shallow, our commerce in those waters is thereby frequently retarded and much time often lost by the steamboats carrying the mail between New Orleans and Mobile, as said boats often get aground in said Pass Christian.

Be it further resolved, That the governor forward each of our Senators and Representatives in Congress with a copy of the above resolution.

Approved February 7, 1840.

Laws of Mississippi, 1840, page 262.

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 100 Filed 10, 1,'04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13 1905. James H. McKenney, clerk.

2342 MISS. DOCUMENT No. 101.

Original.

CHAPTER 148.

To the Senate and House of Representatives of the Congress of the United States:

Your memorialists, the legislature of the State of Mississippi, would respectfully but earnestly call the attention of the Congress to the importance of erecting and establishing, on the southern coast of this State, suitable naval fortifications, and a minute survey of the bays, sounds and harbors within, and adjacent to the State.

It will be remembered by your body, while our Atlantic States are amply provided with highly useful and necessary fortifications,

that there is but one naval depot in the whole southwest; and, consequently, the long extent of our coast is not only defenceless, in this particular, but completely exposed to the inroads of those who may become our enemies.

No section of the whole country can claim, over the cotton growing States, any substantial reason why less adequate means of protection should be extended to the Atlantic States than to the States of the South. The commerce of the South is annually increasing, and promises, within the circle of a few years, to be equal to any portion of the Union; that great staple has a market chiefly abroad, and for the products of their soil and agricultural labour, receive a return in the shape of commercial commodities, to supply the demands of the whole valley of the Mississippi; and to swell the commercial business of these States to an extend to need the strong arm of protection from the country, that the commerce of all nations requires at the hands of their Government, when exposed to the aggression of those that for any reason may become antagonistical in their intercourse. We do not hesitate to say, that the commerce of the United States will be more assailable in this quarter for foreign assaul- than any other section of the continent, and with the most limited means of defence. It is a matter of regret that our country and its vast peculiarities and recourses are so little known, and so lightly regarded; and that inaccurate surveys and partial reports, made by incompetent persons, constitute almost every thing that can be referred to for information in the archives of the country. As little as it is generally understood, it is nevertheless true, that, in an extent of facilities and importance, the coast of Mississippi presents harbours, soundings, &c., as well as adapted for the anchorage of ships of war of the largest class, and the easy, uninterrupted purposes of commerce, as the most approved favorite points elsewhere.

None of the States are more accessible to invasion, by sea, than our coast, and during the last war, the want of a proper defense was most seriously felt in the easy invasions of Louisiana through this channel of internal communication; and but for the decisive triumph of our soldiery, at the memorable conflict of 1814 and '15, the most calamitous results might have happened to our southern cities and towns, which time to this day might have not subdued or mitigated. It is also painfully true, that in the invasion of the Southern States, by the British, it was found that the English surveys of the southern coast, made years before, when the country was an unbroken wilderness, were far more extensive and complete than any information furnished by the departments at Washington, or in the possession of the officers
2343 of either the army or the navy, assigned on duty in this section of the country, during the time of the invasion; a whole fleet of the British navy found an easy ingress to our shores, and one of the largest men of war, anchored off Cat island during the time, and by its position was enabled to command the whole pass, yielding the greatest succour to their own forces, and entirely cutting

our means of attack or defence; since the war very few examina-
ns or surveys have been made, and the departments may, even
, be said to be destitute of this most desirable information.
In the support of the necessity of erecting suitable naval fortifica-
ns on this coast, to the reason stated before, may be added the
t, that the whole country around is most abundantly clothed with
growth of live oaks, eminently fitted for the construction of
ry description of vessels; and the quality, not inferior to the
wth of that valuable wood in any region, on this account, not
y would the United States, in point of economy, study the inter-
s of the country, (but at the same time build up a most important
ence for the whole country). The coast of Mississippi immedi-
ly on the gulf of Mexico has been invariably considered the
lthiest point in the Southern States, and is the usual resort of our
zens during the season of sickness and the visitation of epidemics,
ere they are enabled to remain with perfect security. There has
er been a solitary instance of the fatal fevers (epidemical) of the
th that originated on the coast, while in other particulars no
t can be selected freer from disease either on account of location
climate.
So far as any risk from exposure to sickness to those who may be
ployed in the erection, or detained in or about the proposed
ifications, is concerned, the Government may not have the
htest fears or objections. And that the proposed works will meet
united consent and approbation of the whole South, we do not
itate to assert; and we would, therefore, with all due deference,
reat your honorable body to a full investigation of the subject
l a speedy action thereon.
n conclusion, we would again revert to the importance of taking
mediate steps to have an accurate survey and examination made
his coast, so essential to southern interest, as being not only of
t utility to the department at Washington, but useful to our
ble citizens; and when it is remembered, that other nations, in
ir scientific explorations, are possessed with a knowledge of some
our harbours and coast, superior to what we ourself possess, it
be readily conceded that our safety, to a small extent, is greatly
ardized and compromitted.
f national pride would not stimulate us to the performance of
duty, at least a regard for the defence and protection of the
ntry loudly demands that this branch of the public duty be no
ger neglected or delayed.
Therefore, resolved, that our Representatives in Congress, be re-
sted, and our Senators instructed, to use their utmost means to
cure the passage of a law, by Congress, to cause the erection of
al fortifications at some suitable point on the southern coast of
State, and cause an accurate survey and examination to be
le of the different harbors and sounds of said coast.
pproved February 22, 1840.
Laws of Mississippi, 1840, page 148.

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 101 Filed 10/1/04 Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13 1905, James H. McKenney, clerk.

2344 MISS. DOCUMENT NO. 102.

Original.

CHAPTER 118.

A Resolution to Congress Concerning the Erection of a Light-house on St. Joseph's Island.

Resolved by the legislature of the State of Mississippi, That our Senators in Congress be instructed, and our Representatives requested to unite their best exertions to obtain a sufficient appropriation for the erection of a light-house on St. Joseph's, sometimes called Half-moon island, situated in Lake Borgne, and lying between the mouth of Pearl river and the bay of St. Louis.

Approved February 22, A. D. 1842.

Laws of Mississippi 1842, page 252.

(Endorsed:) Louisiana *vs.* Mississippi. Miss. Doc. 102. Filed 10/1/04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2345 MISS. DOCUMENT NO. 103.

Original.

CHAPTER 196.

Resolutions Requesting the Congress of the United States to Remove the Custom House from Pearlington, on Pearl River, to Shieldsborough, on the Bay of St. Louis.

Whereas, the present location of the custom house at Pearlington is extremely inconvenient to a large portion of the owners of vessels interested in the custom house, for the reason that Pearlington is situated on the extreme western border of this State, and the said location at Pearlington is not of easy access, owing to the fact that it is some ten miles above the mouth of Pearl river, which is, at certain stages of water, of difficult access to vessels propelled by wind, in consequence of the current of the river; and, whereas, nine-tenths of the vessels interested in the location of the custom house, are owned and navigated by persons living to the eastward of said location at Pearlington; and, whereas, Shieldsborough, situated on

of St. Louis is about twenty-five miles from the western , and about fifty miles from the eastern boundary of this l is not more than two miles from the usual route from ans to Mobile, thus presenting a location as nearly central e conveniently had; thus it is seen that Shieldsborough is in every respect more suitable than Pearlington: Therefore ed, That our Senators in Congress be instructed, and Repre- s requested to use all proper exertions to have the custom ow located at Pearlington, removed to Shieldsborough, on of St. Louis.
ved February 24, 1844.
aws of Mississippi 1844, page 371.

rsed:) Louisiana *vs.* Mississippi Miss. Doc. 103 Filed 4 Wm. D. Bullard, commissioner. Office Supreme Court Filed Mar. 13, 1905. James H. McKenney, clerk.

MISS. DOCUMENT No. 104.

Original.

CHAPTER 307.

ple and Resolutions Asking Congress to Erect Light Houses, tablish a Mail Route on the Sea Coast of Mississippi, &c.

reas, that portion of the State of Mississippi bordering on lf of Mexico, is rapidly improving in population, commerce vigation, and its people and interest are suffering greatly for f that attention from the General Government which has generally extended to our northern and eastern sea coasts, way of light houses, to guide our hardy and tempest tossed ers—protect their lives and the property of our citizens; and as the last acquisition of the extensive territory of Texas, ex- g our possessions to the south and west on the gulf of Mexico, great additional importance to every part of those waters, and ade and commerce passing through them, and the apprehen- t present of a rupture with our old British foe, and our liabil- any time to the difficulties with foreign powers, render the t of our wholly unprotected sea board, in every way, of the st importance to the General Government, and particularly to States, more immediately the subjects of such neglect; and eas, our entire sea coast is deprived of such mail facilities from o the cities of New Orleans and Mobile as are extended to t every other portion of our country similarly situated, which tter of the most serious importance in the present advanced and rapid progress of physical knowledge, and as our whole oard is entirely unprotected in case of invasion: Therefore—

Be it resolved by the legislature of the State of Mississippi, That our Senators in Congress be instructed, and our Representatives requested, to use their best and untiring exertions to get laws passed to the following effect, viz: First, a law making an appropriation for building light houses at Biloxi, Mississippi City, and Pass Marianne, at such places as may be deemed suitable, to be selected by direction of the Secretary of the Treasury. Second, a law establishing a mail line by steam from New Orleans to Biloxi and back, touching regularly each way at Fort Pike, Shieldsboro, Pass Christian, and Mississippi City, once a week each way in the winter, and twice a week each way in the summer: Provided, said contract shall not let for a sum exceeding $8,000.00 per annum. Third, a law appropriating the sum of $5,000.00 to clean out and deepen the channel to Biloxi, at the west end of Deer island, and a like sum to deepen the channel on the bars at Pass Christian. Fourth, a law reserving Ship island from sale, and making an appropriation for building a fort and navy yard or naval depot, on the west end of said island, and barracks in or near the center of said island, as a place of summer resort for U. S. troops to avoid sickness, and where their services may be of utility in building such fort.

Approved February 5th, 1846.

Laws of Mississippi 1846, page 553.

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 104 Filed 10/1/04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2347

Miss. Document No. 105.

Original.

Chapter 46, Laws of Mississippi, 1854.

An Act to Authorize the Printing of the First Annual Report of the Agricultural and Geological Survey of the State.

Section 1. Be it enacted by the legislature of the State of Mississippi, That two thousand copies of the report of Prof. B. L. C. Wailes, State geologist, be printed under his supervision in quarto form, and in such manner and with such illustrations and plates therein given as his excellency the governor shall deem appropriate and necessary, for its illustration.

Sec. 2. Be it further enacted, That when printed and bound, the said report shall be deposited in the office of the secretary of state, to be by him distributed as follows: Fifty copies to be deposited in the State library, twenty-five copies to be deposited in the State university, one copy in each State in the Union, one copy to be given to each incorporated college and academy in the State, one copy

h to the governor, secretary of state, auditor of public accounts, te treasurer, adjutant general, the chancellor and vice chancel-s, the judges of the high court of errors and appeals, the attorney eral, the judge and district attorney of each district, each mem- of the present senate and house of representatives, and one hun- d copies to the State geologist, to be by him exchanged for simi- reports from other States, and to furnish the scientific societies l public libraries.

EC. 3. Be it further enacted, That one thousand copies of said ort shall be deposited in the office of the secretary of state, to be l by any agent or agents to be appointed by the governor, under h regulations and for such sum each, as he may deem prudent l advisable for the purpose of reimbursing the State for publish- the same, and the balance to be distributed among the several nties of the State in proportion to their representation in the slature to be furnished to the people thereof in such a manner as board of police of the several counties may direct.

EC. 4. Be it further enacted, That previous to the printing of l report, it shall be revised and completed by said State geologist; the portion of it that treats of zoology, as far as prepared, shall mitted, and in lieu thereof a catalogue of the fauna of the State ar as ascertained, be substituted.

EC. 5. Be it further enacted, That a further and more efficient secution of the survey, analysis of the marls, soils, mineral ers and the chief agricultural productions of the State, shall be le at the University of Mississippi, as the trustees may designate, the State geologist may from time to time furnish such marls, , and waters as may be required for analysis, and shall receive, eturn from the chemist, full and precise reports of all analysis ch may be made, and specimens of the marls, and soils shall be erved in convenient glass bottles in the State cabinet and in the net of the university, properly labelled, with the chemical char- r of the substance, and the locality from which the same was ined.

EC. 6. Be it further enacted, That the State geologist shall make collections of specimens to illustrate the mineral character and paleontology of the State, in addition to the geological productions which by law he is now required to collect, and ause them to be suitably arranged and preserved in the State net, and in that of the university, and any duplicates that re- n may be distributed by him among such of the incorporated ges as may apply for them.

EC. 7. Be it further enacted, That the sum not to exceed two sand five hundred dollars *to* be appropriated out of any money e treasury, to be drawn upon the requisition of the governor, he purpose of carrying into effect the provisions of this act.

EC. 8. Be it further enacted, That — act shall take effect and be ree from and after its passage.

pproved March 1, 1854.

Laws of Mississippi 1854, page 148.

(Endorsed:) Louisiana vs. Mississippi Miss. Doc. 105 Filed 10/1/04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

Miss. Document No. 106.

Original.

CHAPTER CV.

An act to enable the United States of America to obtain a title to St. Joseph island, near the east end of the Rigolets, in the county of Hancock, for the purpose of constructing a lighthouse thereon.

Whereas it is represented that the United States are desirous to acquire a title to a small island on the Gulf coast, near the east end of the Rigolets, called St. Joseph island, situated within the limits of the county of Hancock in this State, for the purpose of erecting a lighthouse thereon, and that they have not been able to obtain from the owner thereof a title to the same, and whereas it is important to the safety of navigation of said coast that the said improvement should be made, therefore:

SECTION 1. Be it enacted by the legislature of the State of Mississippi, That it shall be lawful for the United States of America, by that name, or in the name of any officer thereof authorized for that purpose, on giving five days' personal notice to the owner of said St. Joseph island, or if such owner be not found or known, then on posting such notice for five days at the door of the courthouse in the said county of Hancock, to apply to the circuit court of said county for the appointment of five disinterested persons as commissioners to appraise and value the said island, or such part thereof as may be required for the purpose aforesaid, and the said commissioners, or a majority of them, shall value and appraise the same, and make their report thereof to the said court without delay, under oath, and the said court shall confirm the same, and thereupon the United States and their officers and agents, upon payment or tender of the amount of said valuation to the owner of said island, if he be found or discovered, to enter upon and use the land so valued for the purpose aforesaid, and the said United States shall be invested with the full title to use, occupy and possess the same so long as it may be desired for the purpose aforesaid; and this act shall take effect from its passage.

Approved, November 19th, 1857.

Laws of Mississippi 1857, page 162.

(Endorsed:) Louisiana vs. Mississippi Miss. Doc. 106 Filed 10/1/04 Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2130 MISS. DOCUMENT No. 107.

Section 1 of an Act to Establish a Separate Territorial Government for the Eastern Part of the Mississippi Territory, Approved March 3, 1817.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That all that part of the Mississippi Territory which lies within the following boundaries to-wit: Beginning at the point where the line of the thirty-first degree of north latitude intersects the Perdido river, thence east to the western boundary line of Georgia, thence along said line to the southern boundary line to the State of Tennessee, thence up the same to the mouth of Bear creek, thence by a direct line to the north-west corner of Washington, thence due south to the gulf of Mexico, thence eastwardly including all the islands within six leagues of the shore, to the Perdido river, and thence up the same to the beginning, shall for the purpose of temporary government, constitute a separate territory, and be called "Alabama."

U. S. Statutes at Large, vol. 3, page 371.

(Endorsed:) Act of Congress erecting eastern part of Miss. T. into State of Alabama. Louisiana vs. Mississippi Miss. Doc. 107 Filed 1/1/04, Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2131 MISS. DOCUMENT No. 108.

Original.

Chap. LII.—An Act Authorizing the Erection of Certain Lighthouses, and for Other Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as soon as a session shall be made by the States, respectively, within the limits which any of the light-houses, and other public works hereinafter provided for may be situated, to the United States, of the jurisdiction over a tract of land, respectively, proper for the said light-houses and other public works, the Secretary of the Treasury shall cause the said lighthouses and other public works to be erected; and that he shall cause the lighthouses and other public works herein provided for, which may be situated on such locations as are within and under the jurisdiction of the United States, to be erected as soon as practicable; and that the following sums be, and they are, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose herein specified, to-wit:

(Only that part of the act relating to lighthouses in Mississippi is copied herein.)

"In Mississippi.—For a lighthouse on Merrill's shell bank, twelve thousand dollars; and the appropriation of a like sum for a light on St. Joseph's island, on the third day of March, eighteen hundred and thirty-seven, is hereby repealed."

"For a lighthouse at Biloxi, twelve thousand dollars."

Approved, March 3, 1847.

Page 175, vol. IX, U. S. Statutes at Large.

(Endorsed:) Act of Congress, 1847. St. Josephis Island lighthouse. Louisiana vs. Mississippi. Miss. Doc. 108. Filed 10/1/04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

Original.

Chap. CLX.—An Act Making Appropriations for Light-houses, Light-boats, Buoys, etc., and Providing for the Erection and Establishment of the Same, and for Other Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following appropriations be, and the same are hereby made, and directed to be paid out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Treasury to carry the provisions of this act into effect; provided, however, if a good title to any land, which it may be necessary to use, cannot be obtained on reasonable terms, or the exclusive right to such land cannot be acquired by cession when the interest of the United States demands it, before the appropriation would by law fall into the surplus fund, in any and all such cases the appropriations shall be applicable to the objects for which they are made at any time within two years after the first meeting of the legislature of any State wherein such land may be situated, subsequent to the passage of this act, to wit:

(Only that part of the act which relates to light-houses in Mississippi is copied here.)

"Mississippi.—For rebuilding the light-house and keeper's dwelling at Round island, eight thousand dollars."

"For rebuilding the light-house tower at the west end of Cat island, and fitting it with proper illuminating apparatus, twelve thousand dollars."

Approved August 18, 1856.

Page 95, vol. XI, U. S. Statutes at Large.

(Endorsed:) Act of Congress, 1856. Round Island light house. Louisiana vs. Mississippi. Miss. Doc. 109. Filed 10/1/04. Wm. D. Bullard, commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

Miss. Document No. 110.

Original.

Chap. XX.

An Act for the Relief of John Quavre.

Whereas, it has been represented to the General Assembly, by the tition of sundry citizens of Hancock county, that John Quavre, of d county, has rendered to the State of Mississippi, and to society general, great service in detecting and bringing to justice, John ker, and Martin Hogan, the first of whom was tried at the last perior court, held in and for said county, for robbery committed the gulf of Mexico, within the boundary of this State, was con- nned and sentenced to death by said court and was executed on 27th day of September last; the latter having made his escape m jail, was not tried.

And, whereas, it is considered important to the interest of this te, that persons should be encouraged in deeds of valor, humanity l patriotism; such as this, is represented to have been, especially relation to the atrocious crimes committed on high-seas and sea- rd—Therefore,

c. 1. Be it enacted by the senate and house of representatives he State of Mississippi, in General Assembly convened, That the of two hundred dollars be paid to John Quavre, for having de- d and delivered to justice, John Baker and Martin Hogan, for ery committed in the gulf of Mexico, within this State, out of money in the State treasury, not otherwise appropriated.

COWLES MEAD,
Speaker of the House of Representatives.
JAMES PATTON,
Lieut. Gov. and President of the Senate.

pproved November 24, 1821.

GEO. POINDEXTER.

Laws of Mississippi 1821, page 21.

ndorsed:) Act for the relief of John Quavre 1821. Louisiana lississippi Miss. Doc. 110 Filed 10/1/04 Wm. D. Bullard, nissioner. Office Supreme Court U. S. Filed Mar. 13, 1905 s H. McKenney, clerk.

2354 MISS. DOCUMENT NO. 111.

STATE OF MISSISSIPPI, }
Hancock County. }

I, Emile H. Hoffman, clerk of the circuit court of Hancock county, hereby certify that I have made diligent search and inquiry for the records and files relating to the case of The State of Mississippi *vs.* John Baker and Martin Hogan, in which case the said persons were charged with robbery in said county, in 1821; that I have searched in the places where such papers ought to be and would likely be found if they were in existence; that such records and files, if in existence would be in my custody as clerk of the circuit court of Hancock county aforesaid; that I have been unable to find them, or any part of them, all of our county and court records having been destroyed by fire on the 1st day of April, 1853.

Witness my hand and official seal this the 29 day of September, 1904.

[Seal of Circuit Court, Hancock County, Miss.]

E. H. HOFFMAN, Clerk.

(Endorsed:) Certificate of Hancock Co. clerk. Louisiana *vs.* Mississippi Miss. Doc. No. 111 Filed 10/1/04. Wm. D. Bullard, commissioner Office Supreme Court U. S. Filed Mar. 13, 1905. James H. McKenney, clerk.

2355 MISS. DOCUMENT NO. 112.

Original.

Doc. *a*.

Extract from Letter of W. C. C. Claiborne to George Poindexter, a Member of Congress, of Date Jan. 7, 1812.

"NEW ORLEANS, Jan. 7, 1812.

The Honorable George Poindexter, a member of Congress.

DEAR SIR: I have for some time past anticipated the pleasure of a letter from you. But I see (through the medium of the papers) that you are busily engaged, and can readily find for you an apology. I sincerely wish you success in your application for a State authority:—Territorial governments are at best necessary evils:—they are ill suited to the genius of the American people and should never exist but over small communities, who are neither able nor desirous to manage their own affairs. I cannot however wish success to your efforts to take from Orleans the whole of West Florida:—

Had you designed to give us a moiety for example, had you proposed that the Orleans Territory should extend eastwardly to Pearl river, and the tract of country extending from Pearl river to the Perdido to be attached to the Mississippi territory, I do not know that the plan would be very exceptionable:—But your demand for the whole seems to me somewhat extravagant and if granted by Congress, will in my opinion be highly injurious to the new State of Louisiana (the name the convention has preferred) whose best interests suggest an extension of its eastern boundary. I myself would prefer the Perdido, but we would compromise and take as far as Pearl river, and leave to your State the country on the Tombigbee and Pascagoula and the care of one of the great avenues for the western commerce the mouth of the Mobile."

Doc. *b*.

Original.

Extract from Letter of W. C. C. Claiborne to James Monroe, Secretary of State, of Date Jan. 31, 1812.

"Mess. Fromentin & Magruder are charged by the convention with a memorial to Congress which prays for the annexation of a part of West Florida to the new State. How far the posture of our relations in respect to that district, with foreign nations, will permit the Government to annex permanently, to a State, such part of Florida as lies west of the Perdido, is not for me to determine. But you will permit me to observe that the interests of the new State strongly advise an enlargement of its limits, and I do add that the annexation solicited would, (in my opinion), not only conduce to the convenience and prosperity of the people, more immediately interested but to the national good."

56

Doc. *c*.

Original.

Extract from Letter of W. C. C. Claiborne to John H. Johnson, Esq., Sheriff of the 7th Court, etc., St. Francisville, Dated at New Orleans, April 20, 1812.

"A bill approving the constitution formed by the Orleans convention has passed the House of Representatives; but I am not advised the details. It is understood, that the country from Pearl river to Perdido, is to be added to the Mississippi territory. But of the disposition to be made of the residue of Florida, I am not informed. I indulge however the pleasing hope that the parishes of St. Tammary, Hellena, Baton Rouge and Feliciana will ultimately form a part the State of Louisiana."

Doc. *d.*

Original.

Extract from Letter of W. C. C. Claiborne to John H. Johnson, Esq., St. Francisville, Dated New Orleans, May 4th, 1812.

"We have information that the passage of the bill, by the two houses of Congress, for the admission of Louisiana into the Union, and by the ensuing mail, shall no doubt, receive a copy of the act as approved by the President.

Florida as far as Pearl river is annexed to Louisiana; but as to the conditions I remain uninformed."

Extract from Letter of W. C. C. Claiborne to William L. Brent, Esq., Attackapas, Dated New Orleans, May 14, 1812.

"We are momently in expectation of receiving official information of our admission into the Union. On the 6th of April a bill approving the constitution passed both houses of Congress, and by the ensuing mail, we shall doubtless receive a copy with the President's approbation. It is understood, that Florida, as far as Pearl river, with the assent of the State legislature is to be added to Louisiana. There are individuals in this city, and some too, who will probably be in the legislature, who would withhold this assent. But I trust a great majority will accede to the proposition with promptitude and pleasure. For myself I shall view such an acquisition of population and territory, as an event greatly interesting to the present and future prosperity of this section of the Union."

2357 Doc. *e.*

Original.

Extract from Letter of W. C. C. Claiborne to the Honorable James Monroe, Secretary of State, Dated Near New Orleans, June 27th, 1812.

"As the tract of country which lies between the Mississippi and Pearl rivers is not yet included within the State of Louisiana, nor annexed to the Mississippi territory, it has been considered as forming at this moment the Territory of Orleans.

If this opinion should be deemed correct, I beg the favor of you to announce to the President my resignation as governor of Orleans, from and after the date of this letter."

Letter from W. C. C. Claiborne to the Honorable Albert Gallatin, Sec'y of the Treasurer, Dated Near New Orleans, 27th June, 1812.

"I have had the honor to receive your letter of the 25th ultimo, and shall in obedience to your directions, close my accounts against

the U. States, for contingent expenses, with the 30th of April, 1812. As that tract of country, which lies between the Mississippi and the Pearl river, is not yet included in the State of Louisiana nor annexed to the Mississippi territory, it has been considered as forming at this moment the Orleans Territory. I do not know that this opinion is correct, but as doubts may arise upon the subject, I have this day, forwarded my resignation as governor of Orleans to the Hon. the Secretary of State for the U. States."

Doc. *f*.

Original.

Letter from W. C. C. Claiborne to Thos. B. Robertson, Esq., New Orleans, Dated New Orleans, July 4th, 1812.

"On the 27th ultimo, in a letter to the Secretary of State, I announced to him my resignation of the office of governor of the Orleans Territory. It would seem by Mr. Gallatin's letter of the 25th of May (a copy of which I requested Mr. Vassant to hand you) that in his opinion no such Territory existed. But as the tract of country, which lies between the Mississippi and Pearl rivers is not yet included within the State of Louisiana, nor annexed to the Mississippi territory an opinion has prevailed that this tract formed for the present the Orleans Territory. I will not undertake to say, that this opinion is correct. But as the ordinance has provided in the event of the resignation of the governor, that his powers shall devolve upon the Secretary. I have deemed it my duty to address you this letter."

2358

Doc. *g*.

Original.

Letter from David Holmes to Governor Claiborne, Dated Town of Washington, 22nd of June, 1812.

"I have seen on a public print an act of Congress to enlarge the boundaries of the Mississippi territory, by which it appears that all the tract of country lying east of Pearl river, west of Perdido, and south of the thirty-first degree of north latitude, is annexed to our territory. In all probability it will be my duty to organize this newly acquired country, and as you have heretofore exercised authority as governor over the same, it is in your power to afford me some useful information in this discharge of this duty. I will, therefore, thank you for the names of the persons that have been commissioned to fill the offices within this district under your government, and any other information which, in your opinion, will aid me in performing this duty."

Extract from a Letter of David Holmes, Governor of the Mississippi Territory, to General Wilkinson, Dated at the Town of Washington, 7th of September, 1812.

"I have erected the whole of that tract of country lying south of the 31st degree of north latitude, east of Pearl river, and west of the Pe-dido, into a county by the name of Mobile. Civil and military commissions were forwarded to Judge Toulmin with a request that he would have them distributed. Since then I have not heard from that part of the territory."

Doc. *h*.

Original.

By David Holmes, Governor of the Mississippi Territory.

A Proclamation.

Whereas by an act of the Congress of the United States passed the 14th day of May in the year one thousand eight hundred and twelve, "entitled'An act to enlarge the boundaries of the Mississippi territory," there has been annexed to said territory all that tract of country lying east of Pearl river, west of the Perdido, and south of the thirty-first degree of north latitude, and whereas the same is declared by the act aforesaid to be a part of the said territory, and to be governed by the laws thereof now in force, or such as hereafter may be enacted, and the laws and ordinances of the United States relative thereto, in like manner as if the said tract of country had originally formed a part of the said territory. Now, know ye, that by virtue of the powers in me vested, as governor of the Mississippi territory, and in order that the benefit of the laws and ordinances aforesaid may be extended to the people inhabiting the said tract of country, I do hereby erect the same into a
2359 county, and by these letters made patent do order and declare that the said county shall be called and known by the name of Mobile, and do further declare that the laws of the Mississippi territory, and the ordinances and acts of Congress relative thereto are in force within the said county of Mobile, and that the inhabitants thereof are entitled to all and singular the jurisdiction, rights, privileges and immunities that respectively appertain to the counties of the Mississippi territory, and moreover—I do invite and enjoin the inhabitants of the said county, to be obedient to the laws, to maintain order, and to demean themselves as peaceable citizens.

In testimony whereof, I have caused the seal of the Mississippi Territory, to be hereunto annexed, and signed the same with my hand.

Done at the town of Washington, the first day of August A. D. 1812, and in the 37th year of the Independence of the United States of America.

DAVID HOLMES.

Doc. *i*.

Original.

David Holmes, Governor of the Mississippi Territory—A Proclamation.

Whereas by a proclamation issued by me on the 1st day of August
I did, by virtue of the powers in me vested, erect into a county
e known by the name of Mobile all that tract of country lying
t of Pearl river, west of the Perdido, and south of the thirty-first
ree of north latitude, which said tract of country was annexed to
Mississippi Territory by an act of the Congress of the United
tes, passed on the 11th day of May, in the year of our Lord 1812,
itled An act to enlarge the boundaries of the Mississippi Territory.
d whereas by the aforesaid act of Congress the inhabitants of
l county of Mobile are entitled to one representative in the General
embly of said Territory, now know ye, that I do hereby authorize
l empower the sheriff of the said county of Mobile, to convene
freeholders of the same, on the third Monday in October next,
uch place or places as he may deem most convenient for the said
holders, of which he is to give public notice, for the purpose of
ting one fit person, qualified as the ordinance directs, to repre-
t them in the General Assembly of the Territory. And I do fur-
r empower and direct the said sheriff to cause to be appointed
able persons to superintend the said election as managers. And
reover I do order that said election be conducted in all things
ording to the laws of the Mississippi Territory, in like manner as
he said county had originally formed a part of the said Terri-
.

n testimony whereof, I have caused the seal of the Mississippi
ritory to be hereunto annexed, and signed the same with my
d at the town of Washington, the 17th day of September, A. D.
2, and in the 37th year of the Independence of the United States
America.

DAVID HOLMES.

0 JACKSON, MISSISSIPPI.

hereby certify that I have carefully compared the foregoing
es with the originals in my office and find that they contain
e and correct copies of certain letters and documants and parts
certain letters and documents found in the journals of David
mes and W. C. C. Claiborne respectively; that the said copies of
ers and documents and extracts from letters and documents,
ch I have examined, compared and found correct are marked
his batch as Documents *a*, *b*, *c*, *d*, *e*, *f*, *g*, *h* and *i* respectively.
further certify that the originals, from which the said copies

were made, are part of the archives of my department, and that I am the official custodian of them.

Witness my hand this the first day of October, 1904.

DUNBAR ROWLAND,
Director Department of Archives and
History of the State of Mississippi.

(Endorsed:) Louisiana *vs.* Mississippi Miss. Doc. 112 Filed 10/1/04. Wm. D. Bullard commissioner. Office Supreme Court U. S. Filed Mar. 13, 1905, James H. McKenney, clerk.

2361 (Mississippi Exhibits A & B are maps which will be found in its atlas of maps.)

2362 In the Supreme Court of the United States.

THE STATE OF LOUISIANA
v.
THE STATE OF MISSISSIPPI. } Original Cause No. 11.

I, Frank M. Peyton, certify that in the above styled cause I was appointed and sworn as official stenographer on the part of the State of Mississippi; that the oral testimony on the part of said State was taken down by me in short hand before Hon. William D. Bullard, commissioner for said State, and Hon. Frank H. Mortimer, commissioner for the State of Louisiana, and by me extended in typewriting as shown by the accompanying volumes to-wit:

Vol. 1, from page 1 to page 303 inclusive.
Vol. 2, from page 303 to page 610 inclusive.
Vol. 3, from page 610 to page 923 inclusive.
Vol. 4, from page 923 to page 1144 inclusive.
Vol. 5, from page 1144 to page 1387 inclusive.
Vol. 6, from page 1387 to page 1496 inclusive.

I certify that said six volumes, in triplicate, the original and one for each State, contain a true and correct report of all the testimony and of the proceedings had in said cause before said commissioners taken down by me and by me extended in typewriting as aforesaid, on the part of the State of Mississippi in said cause.

Witness my signature this November 1, 1904.

FRANK M. PEYTON,
Official Stenographer.

3 In the Supreme Court of the United States.

STATE OF LOUISIANA
vs.
STATE OF MISSISSIPPI. } October Term, 1904, Original Bill No. 11.

, W. D. Bullard, commissioner, appointed by the honorable Su-
me Court of the United States in the above entitled and num-
ed proceeding, do hereby certify, that under the agreement be-
en counsel for the respective parties therein of record, testimony
behalf of the State of Louisiana was taken before me at the city
New Orleans, State of Louisiana, on September 5th, 6th, 15th and
h, 1904, and that a transcript thereof is contained in the record
testimony for the State of Louisiana, in vol. IV, beginning at
e 1294, and ending on page 1477, both inclusive:
further certify the several exhibits offered in connection with
said testimony so taken before me and enumerated and set out
rein, and identified by my signature, are transmitted therewith.
n testimony whereof, I have signed these presents at the city of
anton, State of Mississippi, this 27 day of February, A. D. 1905.

WM. D. BULLARD,
Commissioner.

4 In the Supreme Court of the United States.

THE STATE OF LOUISIANA
vs.
THE STATE OF MISSISSIPPI. } Original No. 11.

, William D. Bullard, appointed by the Supreme Court of the
ited States to act as commissioner, on the part of the State of
sissippi, to take and report the testimony on the part of the said
te in the above styled cause, and to report the same together with
the proceedings had before me as such commissioner, hereby cer-
that I was duly sworn as comm..sioner aforesaid and pursuant
said appointment, and according to the terms of the several
eements entered into by the counsel in this cause and made
ts of the record herewith presented, I proceeded to take the said
imony and to conduct the said proceedings on the part of the
te of Mississippi at the times and places and in the manner
wn by the said record to which this certificate is attached, and
e the honor herewith respectfully to report the same to this hon-
ble court, in the following form to-wit:
Vol. 1, from page 1 to page 303 inclusive.
Vol. 2, from page 303 to page 610 inclusive.
Vol. 3, from page 610 to page 923 inclusive.
Vol. 4, from page 923 to page 1144 inclusive.
Vol. 5, from page 1144 to page 1387 inclusive.
Vol. 6, from page 1387 to page 1496 inclusive.

I certify that the said six volumes contain a true and correct report of the oral testimony taken and of all the proceedings had before me; that the same was taken down by Hon. Frank M. Peyton who had been duly appointed by me as official stenographer for Mississippi in the said cause and who was by me duly sworn as such and whose certificate is attached thereto, and extended by him into typewriting; that the maps, charts, plats, diagrams and documentary evidence noted and referred to in the said stenographer's report and shown therein to have been filed by me as commissioner aforesaid are also hereby certified to be true and correct and are delivered herewith as a part of this my report.

Witness my signature this the 15th day of November. A. D. 1904.

WM. D. BULLARD,
Commissioner for the State of Miss.

2365 And afterwards, to wit, on the first day of May, A. D. 1905, a motion to assign case for argument was filed in the words and figures following, viz:

2366

Supreme Court United States.

STATE OF LOUISIANA, Complainant,
vs.
STATE OF MISSISSIPPI, Respondent. } No. 11, Original, October Term, 1904.

Motion to Set Cause for Argument.

Now, comes The State of Louisiana, complainant, through Walter Guion, attorney general, and John Dymond, Jr., and Frank C. Zacharie, of counsel, and The State of Mississippi, respondent, through William Williams, attorney general, and Hannis Taylor, of counsel, and move the court for an order to have this cause on its merits set for argument for October 10, 1905, and further move the court for an order to grant such additional time for argument, considering the character and importance of the issues involved in this cause as the court may find itself able to grant.

STATE OF LOUISIANA.
WALTER GUION,
Attorney General.
JOHN DYMOND, JR.,
Of Counsel.
STATE OF MISSISSIPPI.
WILLIAM WILLIAMS,
Attorney General.
HANNIS TAYLOR,
Of Counsel.

(Endorsed:) Original, No. 11 Supreme Court of the United ates. State of Louisiana *vs.* State of Mississippi Agreement and otion. Filed —— —, —. —— ——, clerk John Dymond, Jr., torney for ——.

(Endorsed:) Supreme Court U. S. October term, 1904, No. 11, iginal State of Louisiana, complainant, *vs.* State of Mississippi otion to assign cause for argument. Filed May 1st 1905.

7 And on the same day, towit, on the first day of May, A. D. 1905, the following entry appears of record, viz:

8 Supreme Court of the United States.

TE OF LOUISIANA, Complainant,
vs.
STATE OF MISSISSIPPI. } No. 11, Original, October Term, 1904.

Ir. Hannis Taylor, of counsel for the defendant, submitted to the sideration of the court a motion to fix a day for the argument of cause.
lay 1, 1905.

9 And afterwards, towit, on the 8th day of May, A. D. 1905, the following entry appears of record, viz:

9 Supreme Court of the United States.

E OF LOUISIANA, Complainant,
vs.
STATE OF MISSISSIPPI. } No. 11, Original, October Term, 1904.

consideration of the motion to fix a day for the argument of cause, it is now here ordered by the court that this cause be, the same is hereby, assigned for argument on Tuesday, October next, at the head of the call for that day.
y 8, 1905.

[Endorsed:] Supreme Court of the United States, October term, 1904. Term No. 11, original. Order. Filed May 8,